A

COLLECTION OF STATUTES

CONNECTED WITH THE

General Administration of the Law;

ARRANGED ACCORDING TO THE ORDER OF SUBJECTS:

WITH

NOTES,

BY SIR WILLIAM DAVID EVANS, KNT.
LATE RECORDER OF BOMBAY.

THE SECOND EDITION, CORRECTED;
COLLATED WITH THE ORIGINAL STATUTES,
AND CONTINUED TO THE
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BY ANTHONY HAMMOND,
OF THE INNER TEMPLE, ESQ.

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CLASS I.—ALEHOUSES.*

No. I.] 5 & 6 Edw. VI. c. 25.—For Keepers of Alehouses and Tipling houses to be bound by Recognisance.

5 & 6 Ed. VI. c. 25. Enforced by 1. Jac. I. c. 9.

FORASMUCH as intolerable hurts and troubles to the commonwealth of this realm doth daily grow and increase through such abuses and disorders as are had and used in common Alehouses and other

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* No Mandamus can issue to Justices of Peace refusing to grant a Licence, 2 Str. 681; nor any action be maintained against them on that account, Bassett *v.* Godschall, 3 Wils. 121. But the Court of King's Bench will grant an information for a refusal upon corrupt motives, R. *v.* Young and Pitts 1 Bur. 556—R. *v.* Athay. 2 Bur. 653.—R. *v.* Williams, 3 Bur. 1317—R. *v.* Hume, 3. Bur. 1716, 1786—or for improperly granting such licence, R. *v.* Holland, 1 T. R. 692.

No. I.
5 & 6
Edw. VI.
c. 25.

'houses called Tipling-houses;' (2) It is therefore enacted by the King our sovereign lord, with the assent of the Lords and Commons in this present parliament assembled and by the authority of the same, That the justices of peace within every shire city borough town corporate franchise or liberty within this realm, or two of them at the least (whereof one of them to be of the *quorum*) shall have full power and authority by virtue of this Act, within every shire city borough town corporate franchise and liberty where they be justices of peace, to remove discharge and put away common selling of ale and beer in the said common alehouses and tipling-houses in such town or towns and places where they shall think meet and convenient: (3) And that none after the first day of *May* next coming shall be admitted or suffered to keep any common alehouse or tiplinghouse but such as shall be thereunto admitted and allowed in the open sessions of the peace, or else by two justices of the peace, whereof the one to be of the *quorum;* (4) And that the said justices of the peace or two of them (whereof the one be of the *quorum*) shall take bond and surety from time to time by recognisance of such as shall be admitted and allowed hereafter to keep any common alehouse or tiplinghouse, as well for and against the using of unlawful games, as also for the using and maintainance of good order and rule to be had and used within the same, as by their discretion shall be thought necessary and convenient; (5) for making of every which recognisance, the party or parties that shall be so bound shall pay but twelve pence.

None shall sell Ale or Beer without Licence, and they shall be bound by Recognisance.

1 Show. 398. Justices of Peace may discharge common selling of Ale and Beer.

1 Bulst. 109. 4 Mod. 144. Recognisance with surety by those which do keep alehouses. xij.d. for making the Recognisance.

II. And the said justices shall certify the same recognisance at the next quarter sessions of the peace to be holden within the same shire city borough town corporate franchise or liberty where such alehouse or tiplinghouse shall be; (2) the same recognisance there to remain of record before the justices of peace of that shire city borough town corporate franchise or liberty; (3) upon pain of forfeiture to the King for every such recognisance taken and not certified, iij. li. vj. s. viij. d.

Recognisance must be certified at the next Quarter Sessions.

III. And it is further enacted by the authority aforesaid, That the justices of the peace of every shire city borough town corporate franchise and liberty where such recognisance shall be taken shall have power and authority by this Act in their quarter sessions of the peace by presentment information or otherwise by their discretion, to inquire of all such persons as shall be admitted and allowed to keep any alehouse or tiplinghouse and that be bound by recognisance as is abovesaid, if they or any of them have done any act or acts whereby they or any of them have forfeited the same recognisance; (2) and the said justices of every shire and places where they be justices, shall upon every such presentment or information award process against every such person so presented or complained upon before them to shew why he should not forfeit his recognisance; (3) and shall have full power and authority by this Act to hear and to determine the same by all such ways and means as by their discretion shall be thought good.

Inquiry of those which have forfeited their Recognisance.

IV. And it is further enacted by the authority aforesaid, That if any person or persons other than such as shall be hereafter admitted or allowed by the said justices, shall after the said first day of *May* obstinately and upon his own authority take upon him or them to keep a common alehouse or tiplinghouse, or shall contrary to the commandment of the said justices or two of them use commonly selling of ale and beer: That then the said justices of peace or two of them (whereof one to be of the *quorum*) shall for every such offence commit every such person or persons so offending to the common gaol within the said shire city borough town corporate franchise or liberty, there to remain without bail or mainprise by the space of three days; (2) and before his or their deliverance, the said justices shall take recognisance for him or them so committed, with two sureties, that he or they shall not keep any common alehouse, tipling-house, or use commonly selling of ale or beer, as by the discretion of the said justices shall seem convenient.

The Punishment of those which contrary to the Commandment of the Justices do keep Alehouses.

Altered by 3 Car. I. c. 3. §. 2. Palmer 388. 1 Salk. 45.

V. And the said justices shall make certificate of every such re-

Certificate of the Recognisance and Offence at the Quarter Sessions.

cognisance and offence at the next quarter sessions that shall be holden within the same shire city borough town corporate franchise or liberty where the same shall be committed or done; (2) which certificate shall be a sufficient conviction in the law of the same offence. (3) And the said justice of peace upon the said certificate made, shall in open sessions assess the fine for every such offence at xx. s.

No. I. 5 & 6 Edw. VI. c. 25.

The Fine of those which keep Alehouse without Licence.

VI. Provided alway, That in such towns and places where any fair or fairs shall be kept, that for the time only of the same fair or fairs it shall be lawful for every person and persons to use common selling of ale or beer in booths or other places there, for the relief of the King's subjects that shall repair to the same, in such like manner and sort as hath been used or done in time passed; this Act or any thing therein contained, to the contrary notwithstanding. 11 H. 7. c. 2. 4 Ja. 1. c. 4.

A Proviso for Towns where Fairs be kept.

[No. II.] 1 James I. c. 9.—An Act to restrain the inordinate Haunting and Tippling in Inns, Alehouses and other Victualling-houses.

'WHEREAS the ancient true and principal use of Inns Alehouses and Victualling-houses was for the receipt relief and lodging of wayfaring people travelling from place to place, and for such supply of the wants of such people as are not able by greater quantities to make their provision of victuals, and not meant for entertainment and harbouring of lewd and idle people to spend and consume their money and their time in lewd and drunken manner:'

1. Jac. I. c. 9.

The true and principal Use of Inns and Alehouses.

II. Be it therefore enacted by the King's most excellent Majesty, the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That if after forty days next ensuing after the end of this present session of parliament, any inn-keeper victualler or alehouse-keeper within this realm of *England* or the dominion of *Wales*, do permit or suffer any person or persons inhabiting and dwelling in any city town corporate market town village or hamlet within this realm of *England* or dominion of *Wales*, where any such inn alehouse or tipling-house is or shall be, to remain and continue drinking or tipling in the said inn, victualling-house tipling-house or alehouse; (2) other than such as shall be invited by any traveller, and shall accompany him only during his necessary abode there; (3) and other than labouring and handicraftsmen in cities and towns corporate and market towns upon the usual working-days, for one hour at dinner-time to take their diet in an alehouse; (4) and other than labourers and workmen which for the following of their work by the day or by the great in any city town corporate market town or village, shall for the time of their said continuing in work there sojourn lodge or victual in any inn alehouse or other victualling-house; (5) other than for urgent and necessary occasions to be allowed by two justices of the peace; That then every such inn-keeper victualler or alehouse-keeper shall for every such offence forfeit and lose the sum of ten shillings of current money of *England* to the use of the poor of the parish where such offence shall be committed; (6) the same offence being viewed and seen by any mayor bailiff or justice of peace within their several limits, or proved by the oath of two witnesses to be taken before any mayor bailiff or any other head officer or any one or more justice or justices of the peace, who by virtue of this Act shall be authorised to minister the said oath to any person or persons that can or will justify the same, being within the limits of their said commission.

The Forfeiture of an Alehouse-keeper permitting one to continue unlawful Drinking in his House.

7 Jac. 1. c. 10.
4 Car. 1. c. 4.

Farther Provisions relating hereto.
1 Car. I. c. 4.
Burn, v. 1—28.

One Witness sufficient.
21 Jac. 1. c. 7. sect. 1.

III. And be it further enacted by the authority aforesaid, That if any inn-keeper alehouse-keeper or victualler shall at any time utter or sell less than one full ale-quart of the best beer or ale for a penny, and of the small two quarts for one penny, that then every such inn-keeper alehouse-keeper or victualler shall forfeit for every such offence, being duly

The Prices of Ale and Beer sold in an Inn or Alehouse.

No. II.
1 Jac. I.
c. 9.

proved in manner above limited, the sum of twenty shillings of lawful money of *England* to the use abovesaid: (2) All and every the said penalties to be levied by the constables or churchwardens of the parish or parishes where the offence or offences shall be committed, by way of distress to be taken and detained for the said forfeitures, and for default of satisfaction within six days next ensuing, the same then to be presently apprised and sold, and the surplusage or remainder over and above to be delivered to the party of whom the distress was taken; (3) and for want of sufficient distress the party or parties offending to be by the mayor bailiff or other head officer or justice or justices aforesaid, committed to the common gaol, there to remain until the said penalty or penalties be truly paid. (1)

The Penalty of the Constables or Churchwardens omitting their Duty.

IV. And be it further enacted by the authority aforesaid, That if the constables or church-wardens do neglect their duty in levying, or do not levy the said several penalties, or in default of distress or distresses, from time to time do neglect to certify the same default of distress by the space of twenty days then next ensuing, to the mayor bailiff other head officer or justice of peace within whose jurisdiction the offence is committed, then every person and persons so offending shall forfeit for every such default the sum of forty shillings of current money of *England*, to the use of the poor of the parish where such offence shall be committed; (2) to be levied by way of distress of the offender's goods, by warrant from any one or more justice or justices of the peace mayor bailiff or other head officer within the limits of their jurisdictions respectively, under his or their hand and seal to be taken and detained for the said forfeitures, for the space of six days then next ensuing: Within which time if payment be not made, the same goods to be presently apprised and sold, and the surplusage and remainder over and above (if any be) to be delivered to the party of whom the distress was taken; (3) and for want of such sufficient distress the constables church-warden or church-wardens so offending to be by the mayor bailiff or other head officer justice or justices of peace committed to the common gaol, there to remain until the said penalty or penalties be truly paid; (4) for all which penalties which so shall be levied by the said constables or church-wardens, they the said constables and church-wardens shall be accountable to their successors and other the parishioners, in such sort as they usually be in other church-reckonings or accounts: (5) And for all forfeitures to be levied by reason of any neglect of the constables or church-wardens, those shall be accountable who by force of any warrant or precept do levy the same, or upon the enlargement of persons committed do receive the same.

The Constable and Churchwarden's Account.

12 H. 7. c. 2.
5 & 6 Ed. 6.
c. 25.
The Continuance of this Statute.

V. And be it further enacted, That all other laws and statutes touching inn-keepers victuallers and alehouse-keepers shall still remain in their former force and be put in due execution. (2) This Act to continue to the end of the first session of the next Parliament.

Offences committed within the Universities.

VI. Provided always, and be it enacted by the authority of this present Parliament, That the correction and punishment of such as shall offend against this Act or any part thereof, within either of the two Universities of this realm or the precincts or liberties of the same, shall be done upon the offenders, and justice shall be ministred in this behalf, according to the intent and true meaning of this law, by the governors magistrates justices of the peace or other principal officers of either of the same Universities, to whom in other cases the administration of justice and correction and punishment of offenders by the laws of this realm and their several charters doth belong or appertain, and that no other within their liberties, for any matter concerning this law, contrary to their several charters do intermeddle; (2) and that all penalties and sums of money to be forfeited or lost by force of this Act, within either of the Universities or the liberties or precincts of the same, shall be levied by the officers or ministers of either of the said Universities, to be from time to time in

(1) By 2 Geo. 3. c. 14, no Innkeeper, &c. shall be sued for enhancing the price of Ale to a reasonable degree.

that behalf appointed by the vice-chancellors thereof for the time being respectively; (3) and that all powers and authorities either of imprisonment or otherwise before given or appointed by this Act, shall by the governors magistrates and principal officers abovesaid of either of the said Universities, be duly executed and done within either of the said Universities and the liberties and precincts of the same, according to the true intent and meaning of this Act. [Made perpetual by 21 Jac. 1. c. 7. §. 1.]

No. II.
1 Jac. I. c. 9.

[No. III.] 4 James I. c. 5.—An Act for repressing the odious and loathsome Sin of Drunkenness.

4 Jac. I. c. 5.

The Penalty of a Drunkard, and of him that continueth drinking in an Alehouse.

'WHEREAS the odious and loathsome sin of drunkenness is of late grown into common use within this realm, being the root and foundation of many other enormous sins, as bloodshed stabbing murder swearing fornication adultery and such like, to the great dishonour of God and of our nation, the overthrow of many good arts and manual trades, the disabling of divers workmen, and the general impoverishing of many good subjects, abusively wasting the good creatures of God:'

Drunkenness the Foundation of many other Sins, and the Cause of several Enormities. 1 Salk. 45.

The Forfeiture of him that is convicted of Drunkenness. 7 Jac. 1. c. 10.

II. Be it therefore enacted by the King's most excellent Majesty, the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That all and every person or persons, which after forty days next following the end of this present Session of Parliament shall be drunk, and of the same offence of drunkenness shall be lawfully convicted, shall for every such offence forfeit and lose five shillings of lawful money of *England*, to be paid within one week next after his her or their conviction thereof, to the hands of the churchwardens of that parish where the offence shall be committed, who shall be accountable therefore to the use of the poor of the same parish: (2) And if the said person or persons so convicted shall refuse or neglect to pay the said forfeiture as aforesaid, then the same shall be from time to time levied of the goods of every such person or persons so refusing or neglecting to pay the same, by warrant or precept from the same court judge or justices before whom the same conviction shall be: (3) And if the offender or offenders be not able to pay the said sum of five shillings, then the offender or offenders shall be committed to the stocks for every offence, there to remain by the space of six hours.

The Penalty for refusing or being not able to pay the Forfeiture.

The Forfeiture of an inferior Officer that doth neglect to do his Duty.

III. And be it further enacted by the authority aforesaid, That if any constable or any other inferior officer of that parish or place where the offence shall be committed, to whom that shall be given in charge by the precept of any mayor bailiff or other head officer or justices of the peace within their several limits, do neglect the due correction of the said offender, or the due levying of the said penalties where distress may be had; then every person so offending shall forfeit the sum of ten shillings of current money of *England*, to the use of the poor of the same parish or place where the offence shall be committed, to be levied by way of distress, by any other person or persons having warrant from any mayor bailiff or other head officer justices of peace or court where any such conviction shall be, and to be paid to the churchwardens as before limited, who are also to account for the same to the use aforesaid.

The Penalty for continuing drinking in an Alehouse, &c. 7 Jac. 1. c. 10.

Further Provisions relating hereto, 1 Car. 1. c. 4. 1 Jac. 1. c. 9.

IV. And be it further enacted by the authority aforesaid, That if any person or persons within this realm of *England* or the dominion of *Wales* shall remain or continue drinking or tipling in any inn victualling-house or alehouse, being in the same city town village or hamlet wherein the said person or persons (so remaining drinking or tipling) doth dwell and inhabit at the time of such drinking and tipling; and the same being viewed and seen by any mayor or other head officer justice or justices of peace within their several limits, or duly proved in such manner and form as is limited in and by one Act of Parliament made in the first session of this present Parliament, intituled, *An Act to restrain the inordinate Haunting and Tipling in Inns Alehouses and other Victualling-houses*, unless it be in such

No. III.
4 Jac. I.
c. 5.

case or cases as be tolerated or accepted in the said Act; that then every person or persons so offending shall forfeit and lose for every such offence the sum of three shillings and four pence of current money of *England*, to the use of the poor of the parish where the said offence shall be committed, to be levied by way of distress in such manner and form as is before appointed by this Act for the levying of the penalty of five shillings for being drunk: (2) And if it happen that any offender or offenders against the true intent of this clause or branch being thereof lawfully convicted be not able to pay the said forfeiture or forfeitures, then it shall and may be lawful for any mayor bailiff or other head officer justice or justices of peace or court where any such convictions shall be, to punish the said offender or offenders by setting him her or them in the stocks for every such offence by the space of four hours.

What Officers shall inquire of and punish the Offences committed against this Statute, and the Statute of 1 Jac. 1. c. 9.

V. For the more due execution of this statute, and for the better and more due proceeding against such offenders, all offences of drunkenness and of excess and unmeasurable drinking, (2) Be it further enacted by the authority of this present Parliament, That all the offences in this Act and in the said former Act mentioned, shall be from time to time diligently inquired of and presented before the justices of assizes in their circuit, justices of the peace in their quarter or ordinary sessions, and before the mayors bailiffs or other head officers of every city or town corporate, who have power to inquire of trespasses riots routs forces and such like offences, and in every court leet, and thereupon such due proceedings shall be against the offender and offenders for their due conviction in that behalf, as in such like cases upon any indictment or presentment is used by the laws of the realm, or customs of the city town or place where such presentment or indictment shall be inquired of and found.

He that is the second Time convicted of Drunkenness shall be bound to his good behaviour.

VI. And it is further enacted by the authority aforesaid, That if any person or persons, being once lawfully convicted of the said offence of drunkenness, shall after that be again lawfully convicted of the like offence of drunkenness, That then every person and persons so secondly convicted of the said offence of drunkenness shall be bounden with two sureties to our sovereign lord the King's Majesty his heirs and successors in one recognisance or obligation of ten pounds, with condition to be from thenceforth of good behaviour.

What Officers shall present the Offences aforesaid.

VII. Be it further enacted by the authority aforesaid, That all constables churchwardens headboroughs tythingmen aleconners and sidemen shall in their several oaths incident to their several offices be charged in like sort to present the offences contrary to this statute.

Enlarged by 21 Jac. 1. c. 7. sect. 5.

No Restraint of Ecclesiastical Jurisdictions.

VIII. Provided always, That this Act or any thing therein contained do not in any wise abridge or restrain the ecclesiastical power or jurisdiction, but that all ordinaries and other ecclesiastical justices and officers shall and may proceed to inquire of censure and punish all such offenders according to the ecclesiastical laws of this realm, in such manner and form as before they lawfully might do; any thing in this Act to the contrary notwithstanding.

There shall be but one Punishment for one Offence.

IX. Provided also, That when any of the offenders against the true intent of this Act, or any branch or article thereof, hath been once punished or corrected for his or her offence, by any the ways and means before limited, that then the said offender shall not be eftsoons punished or corrected for the same offence by any other ways or means.

The Liberties of the Universities shall not be prejudiced.

X. Provided always, That this Act or any thing therein contained shall not be prejudicial to either of the two Universities of this land, but that the chancellors masters and scholars and the successors of them and either of them may as fully use and enjoy all their jurisdictions rights privileges and charters as heretofore they have or might have done; any thing in this Act to the contrary notwithstanding.

Within what Time an Offender shall be presented.

XI. Provided always, That no person or persons shall be punished impeached or molested for any offence mentioned in this statute, unless he shall be for the same offence presented indicted or convicted within six months after such offence committed: (2) This Act to continue until

the end of the first session of the next parliament.* [Made perpetual by 21 Jac. I. c. 7. but see 21 Jac. I. c. 28. which only continues it to the end of the first session of the next parliament. Enforced as perpetual by 1 Car. I. c. 4.]

No. III. 4 Jac. I. c. 5.

* The Continuance of this Act.

[No. IV.] 21 James I. c. 7.—An Act for the better repressing of Drunkenness, and restraining the inordinate haunting of Inns, Alehouses and other Victualling-houses.

'WHEREAS one statute, intituled *An Act to restrain the inordinate Haunting or Tipling in Inns Alehouses and other Victualling-houses* made in the first year of his Highness happy reign of *England*, and another statute intituled *An Act to repress the odious and loathsome Sin of Drunkenness* made in the fourth year of his Highness reign of *England*, were made to continue to the end of the first session of the next Parliament, and by experience have been found good and necessary laws;' Be it therefore enacted, That the said statutes, with the alterations and additions hereafter expressed, shall be put in due execution and continue for ever: (2) 'And whereas by the said statutes proof of two witnesses is required,' Be it enacted, That proof of one witness from henceforth shall be allowed and taken for sufficient in that behalf: (3) And that the voluntary confession (before any such persons as by the said Act are authorised to minister the oath) of any person offending either of the said statutes shall suffice to convict the person so offending; (4) after such confession the oath of the party so confessing shall and may be taken, and be a sufficient proof against any other offending at the same time.

21 Jac. I. c. 7. The Statutes of 1 Jac. I. c. 9. 4 Jac. I. c. 5. made perpetual.

One Witness shall be sufficient to convict a Man of Tipling and Drunkenness. 5 & 6 *Ed. VI.* c. 25.

The oath of him that confesseth the Offence shall be a sufficient proof against any other.

II. And be it further enacted, That if any other person or persons, wheresoever his or their habitation or abiding be, shall at any time hereafter be found upon view or his own confession or proof of one witness to be tipling in any inn alehouse or victualling-house, such person or persons shall be from henceforth adjudged and construed to be within the said statutes as if he or they had inhabited and dwelt in the city town corporate market-town village or hamlet where the said inn alehouse or victualling-house is or shall be where he or they shall be so found tipling, and shall incur the like penalty, and the same to be in such sort levied and disposed as in the said Act is expressed concerning such as there inhabit: (2) And the voluntary confession of such person or persons so offending before such as by the said statutes are authorised to minister the oath shall suffice to convict themselves; (3) and after such confession the oath of such person or persons so confessing shall and may be taken by such as by the said Act have authority to minister an oath, and shall be a sufficient proof against any other offending at that time.

He that stays tipling in an Inn, &c. shall incur the Penalty inflicted by 4 Jac. I. c. 5. *Burn V.* 1. 29. 1 *How. P. C.* c. 78.

III. And be it further enacted, That any justice of peace in any county and any justice of peace or other head officer in any city or town corporate within their limits respectively shall from henceforth have power and authority, upon his own view confession of the party or proof of one witness upon oath before him, which he by virtue of this Act shall have power to administer, to convict any person of the offence of drunkenness, whereby such person so convicted shall incur the forfeiture of five shillings for every such offence, and the same to be levied or the offender otherwise punished as in the said statute is appointed: And for the second offence he shall become bound to the good behaviour as if he had been convicted in open sessions: any thing in the said former statute made in the fourth year of his Majesty's reign to the contrary notwithstanding.

He that is convicted of Drunkenness shall forfeit 5s.

For the second Offence he shall be bound to the good Behaviour.

IV. And be it further enacted, That if any person being an alehouse-keeper, or that shall at any time hereafter be an alehouse-keeper, shall

An Alehouse-keeper offending shall be disabled from keeping an Alehouse Three Years after.

No. IV. 21 Jac. 1. c. 7.

at any time hereafter be lawfully convict for any offence against any the branches of either of the said two former statutes according to the alterations and additions therein contained, or against the true meaning of this present statute; that every person so convict shall for the space of three years next ensuing the said conviction be utterly disabled to keep any such alehouse.

4 Jac. 1. c. 5. Constables, &c. shall be charged (on their Oaths) to present the Offences committed against 1 Jac. 1. c. 9.

'V. And whereas in the said statute made in the fourth year of his 'said Majesty's reign, intituled *An Act to repress the odious and loathsome 'Sin of Drunkenness*, constables churchwardens headboroughs tything-'men aleconners and sidemen are appointed in the oaths incident to 'their offices to be likewise charged to present the offences contrary to 'the said statute;' (2) Be it enacted, That the said oath shall always hereafter be also enlarged and extend to present all offences done contrary to the statute made in the first session of Parliament held in the first year of his Highness reign, intituled *An Act to restrain the inordinate Haunting and Tipling in Inns and Alehouses and other Victualling-houses*, with the alterations and additions in this Act contained, made in the said fourth year of his said Majesty's reign, according to the alterations and additions of the same in this Act expressed. 1 Car. I. c. 4.

[No. V.] 1 Charles I. c. 4.—An Act for the further Restraint of Tippling in Inns, Alehouses and other Victualling-houses.

1 Cha. I. c. 4. 5 & 6 *Ed. VI.* c. 25. Foreigners, as well as Inhabitants, shall not be permitted to tipple in Inns, Alehouses, &c. 1 Jac. 1. c. 9. 4 Jac. 1. c. 5.

'WHEREAS in the last Parliament it was enacted, That if any person 'or persons, wheresoever his or their habitation or abiding be, should 'after be found upon view or his own confession or proof of one witness 'to be tippling in an inn alehouse or victualling-house; such person or 'persons should be thenceforth adjudged and construed to be within the 'statutes of the first and fourth years of the late King's Majesty's reign 'King *James* of famous memory; the one intituled, "An Act to restrain 'the inordinate haunting of tippling in inns alehouses and other victual-'ing-houses;" and the other intituled, "An Act to repress the odious 'and loathsome sin of drunkenness;" as if he or they had inhabited and 'dwelled in the city town corporate market-town village or hamlet where 'the inn alehouse or victualling-house was or should be, where he or they 'should be so found tippling, should incur the like penalty, and the same 'to be in such sort levied and disposed as in the said Act is expressed 'concerning such as there inhabit; (2) but no punishment by any or 'either of the said Acts or by any other statute is inflicted upon the inn-'keeper alehouse-keeper or victualler that permits or suffers such person 'or persons not there inhabiting to tipple in his inn alehouse or victualling-'house:' (3) For remedy whereof, Be it enacted, That every innkeeper alehouse-keeper and other victualler that at any time after the end of this session of Parliament shall permit and suffer any person or persons not inhabiting in the city town corporate market-town village or hamlet where such inn alehouse or victualling-house is or shall be, to tipple in the said inn alehouse or victualling-house, contrary to the true intent of any or either of the said former statutes, the said inn-keeper alehouse keeper and victualler so offending shall incur the same penalty, and in such manner to be proved levied and disposed as in the former statute of the first year of his said late Majesty's reign is appointed for permitting such to tipple as dwell in the same city town corporate market-town village or hamlet.

1 Jac. 1. c. 9.

Vintners and Victuallers to be within this and the other Statutes.

II. And be it further enacted, That the keepers of taverns and such as do sell wine in their houses, and do also keep inns or victualling in their houses, shall be taken to be within the said two former statutes, and also within this statute.

[No. VI.] 26 George II. c. 31.—An Act for regulating the Manner of Licensing Alehouses in that part of *Great Britain* called *England;* and for the more easy convicting Persons selling Ale and other Liquors without Licence.

No. VI. 26 Geo. II. c. 31.

26 G. II. c. 31. See 1 Bur. 556.

'WHEREAS the laws concerning ale-houses inns and victualling-houses and the licensing thereof are defective and insufficient for 'correcting and suppressing the abuses and disorders frequently done and 'committed therein, and also for the conviction and due punishment of 'persons taking upon themselves to sell ale beer or other liquors by re-'tail without licence;' Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That upon granting licences by justices of the peace to any person to keep an alehouse inn victualling-house, or to sell ale beer and other liquors by retail, every such person shall enter into a recognisance to the King's Majesty his heirs and successors in the sum of ten pounds, with two sufficient sureties each in the sum of five pounds, or one sufficient surety in the sum of ten pounds, under the usual condition for maintenance of good order and rule within the same; and in case the person applying for such licence shall be hindered through sickness or infirmity, or any other reasonable cause to be allowed by the said justices of the peace, to attend in person at the meetings of the same justices for granting the said licences, then that it shall and may be lawful for them to grant such licence upon two sufficient sureties entering into such recognisance each in the penalty of ten pounds, for performance of the condition of the said recognisance; which said recognisance, with the condition thereof fairly written or printed, shall forthwith, or at the next general or quarter session of the peace at farthest after granting such licences, be sent or returned to the clerks of the peace or persons acting as such for every county riding city liberty or town corporate in that part of *Great Britain* called *England,* wherein such licences shall be granted under the hands of the justices of the peace before whom such recognisances were taken, to be by the said clerks of the peace or such other person acting as such duly entered or filed amongst the records of the sessions of the peace; and that for every such licence granted without taking such recognisance, and for every such recognisance taken and not sent or returned as aforesaid, every justice of the peace signing such licence shall forfeit the sum of three pounds six shillings and eight pence.

Justices licensing Alehouses, &c. to take Recognisance in the sum of 10*l.* for the Maintenance of good Order.

II. And for the better preventing disorders in alehouses be it further enacted, That no licence to keep the same shall be granted to any person not licensed the year preceding, unless such person produce at the general meeting of the justices in *September* a certificate under the hands of the parson vicar or curate and the major part of the churchwardens and overseers, or else of three or four reputable and substantial householders and inhabitants (1) of the parish or place where such alehouse is to be, setting forth such person is of good fame and of sober life and conversation; and it shall be mentioned in such licence that such certificate was produced, otherwise such licence shall be null and void.

Licences to be granted to none not licensed the year preceding, unless such as shall produce Certificates of their good Fame.

III. Provided nevertheless, That if any licensed person shall die or remove from an alehouse, it shall be lawful for the person succeeding to such house to keep on the said alehouse during the residue of the term of such licence, on condition that within thirty days after such death or removal such person obtain such certificate as aforesaid, to be signed by some neighbouring justice, in order to its being produced at the next general meeting in *September;* and if such certificate be not so obtained and signed within the said thirty days, then immediately from and after the expiration thereof such licence shall be null and void; and no licence shall entitle any person to keep an alehouse in any other place than that

Licensed Person dying or removing, the Successor, upon obtaining such Certificate, may keep on the House for the Residue of the Term of the Licence, &c.

(1) The Certificate of Householders, without the Minister or Churchwardens, is sufficient. R. v. Young, 1 Bur. 556.

No. VI.
26 Geo. II. c. 31.

in which it was first kept by virtue of such licence, and such licence with regard to all other places shall be null and void.

2 Geo II. c. 28. § 11.

'IV. Whereas by an Act made in the second year of his present 'Majesty's reign, intituled *An Act to revive the Laws therein mentioned;* 'amongst other things it was enacted, That no licence shall be granted to 'any person to keep a common inn or alehouse, or to retail any brandy or 'strong waters, but at a general meeting of the justices of the peace acting 'in the division where the said person dwells, to be holden on the first 'day of *September* yearly, or within twenty days after; or at any other 'general meeting of the said justices to be holden for the division wherein 'the said person resides; which regulation, by reason of the last-men-'tioned provision, has been found by experience not to have the effect 'intended by the said regulation;' Be it therefore enacted by the authority aforesaid, That the last before-mentioned provision shall be and is hereby repealed; and that from henceforth no licence for the purposes aforesaid shall be granted but on the first day of *September* yearly, or within twenty days after; and that such licence shall be made for one year only, to commence on the twenty-ninth day of the said *September;* and that the day and place for granting such licences shall be appointed by two or more of the justices acting for the division (2) by a warrant under their hands and seals, at least ten days before such meeting, directed to the high constable or high constables of the said division, requiring him or them to order his or their respective petty constables or other peace officers to give notice to the several innkeepers and alehouse-keepers, within their respective constablewicks, of the day and place of such meeting; and all licences hereafter granted at any other time or place shall be null and void to all intents and purposes whatsoever.

Last Provision in the said Clause repealed.

Licences to be granted on 1 Sep. or 20 days after, but for 1 year.

Clerks of the Peace to deliver Copies of the Recognisances.

V. And be it further enacted, That the clerks of the peace shall keep a register or calendar of all the recognisances so sent or returned, and shall deliver or cause to be delivered to the justices of the peace, at the general meetings in *September* every year for granting licences in each division or place, a true copy of such register or calendar; and that for every recognisance there shall be paid by the clerk or clerks of the justices taking such recognisances to the said clerks of the peace, as their fee for filing or recording the said recognisance, and for making and delivering copies of the said register or calendar thereof as aforesaid, the sum of one shilling and no more; which shall be paid to the clerks of the said justices by the persons licensed, over and above the fees payable to the said justices clerks.

Recovery of Forfeitures.

VI. And be it enacted by the authority aforesaid, That the said forfeitures for granting licences without taking recognisances shall and may be sued for and recovered by action of debt bill plaint or information in any of his Majesty's Courts of Record at *Westminster*, for the use of the person or persons who shall sue or prosecute for the same, together with costs of suit; wherein no essoin wager of law or more than one imparlance shall be allowed.

Where a Justice shall adjudge the Recognisance to be forfeited, he is to summon the Party to the Quarter Sessions, &c.

VII. And be it further enacted by the authority aforesaid, That any justice of the peace of any county riding city liberty or town corporate wherein such licence shall be granted, upon complaint or information that such licensed person hath done or committed any act offence or misdemeanor, whereby in the judgment of the same justice such recognisance may be forfeited or the condition thereof broken, may by summons under his hand and seal require such person so complained of or informed against to appear at the next general or quarter session of the peace for the said county riding city liberty or town corporate, then and there to answer to the matter of such complaint or information; and also may bind the person or persons who shall make such complaint or information, or any other person or persons, in a recognisance to appear at such ge-

(2) It is not necessary that the licence should be stated on the face of it to be granted at a general meeting of Justices for the division. R. v. Bryan. And. 81.—Any justice of the county going to a meeting in the division, is for that purpose a justice of the division. Per Aston J. R. v. Price. Cald. 305.

neral or quarter session and give evidence against such person so complained of or informed against; and the justices of the peace in their general or quarter sessions shall have power to direct the jury which shall attend at such sessions for the trial of traverses, or some other jury of twelve honest and substantial men to be then and there impannelled by the sheriff without fee or reward, to inquire of the misdemeanor charged in the said complaint or information; and if such jury shall find that the person so complained of or informed against hath done any act whereby the condition of his recognisance is broken, such act being specified in such complaint or information, it shall and may be lawful for the court at such general or quarter sessions to adjudge such person guilty of the breach of such recognisance; which verdict and adjudication shall be final to all intents and purposes; and thereupon the said justices shall order the recognisances entered into by such offender to be estreated into his Majesty's Court of *Exchequer*, to be levied to his Majesty's use; and that the said person, the condition of whose recognisance shall be so adjudged to be broken and forfeited, shall, from and after such adjudication, be utterly disabled to sell any ale beer cyder perry spirituous liquors or strong waters for the space of three years; and any licence or licences granted or to be granted to such person during such term shall be void and of none effect.

and Jury finding him guilty, Recognisance to be estreated,

and he is disabled from selling Beer, &c. for three years.

VIII. Provided, That the said justices may at the request of the prosecutor or party so complained of or informed against, or either of his or her sureties, if they shall see just, adjourn the hearing and trial of the said complaint or information to the then next general or quarter sessions of the peace, where the same shall be finally determined.

Justices may adjourn Trial.

'IX. And whereas many persons presume to sell ale beer cyder perry 'or other liquors without such licence as is required by law for selling 'the same; and it is difficult by reason of many evasions that are made 'use of and by some defects in former laws to convict such offenders; Be it therefore enacted, That where any justice of the peace shall suspect that any alehouse-keeper victualler or retailer sells ale beer cyder or perry without such licence, it shall and may be lawful for such justice to call such suspected person before him, and also any excise officer or gauger to produce before such justice his stock book or other account which such officer keeps of the charge or survey of such suspected person in respect of any of the liquors aforesaid, and likewise to examine such excise officer or gauger upon oath, touching the manner in which such officer surveys or charges such suspected person in respect of any of the liquors aforesaid, or how or in what manner such suspected person actually pays the duties for any of the said liquors; and if it shall appear by such stock book or other account, or by the examination of the said officer or gauger, that such person so suspected of selling any of the liquors aforesaid is surveyed as a victualler or retailer, and is charged with the same duties that victuallers and retailers are usually charged with and pay for any of the liquors aforesaid, and is not entitled to the allowance or abatement given to common brewers, then and in such case such suspected person shall be deemed an alehouse-keeper victualler retailer or seller of any of the liquors aforesaid to all intents and purposes as if the same had been proved by two witnesses.

Where a Justice shall suspect that any Victualler sells Ale, &c. without Licence, he may summon him, &c.

X. And be it further enacted, That if any person shall make information before any one justice of the peace, and shew probable cause that he suspects any person sells ale beer or other liquors without a licence from two justices, it shall and may be lawful to and for such justice to call such suspected person before him, and also to summon any other person or persons as evidence to prove the charge against such suspected person; and if such person so summoned shall refuse to appear, or when appearing shall refuse to be examined upon oath and give evidence as aforesaid, such person or persons shall forfeit the sum of ten pounds, to be levied by distress and sale of the goods and chattels of such offender or offenders by warrant under the hand and seal of such justice, rendering to him or them the overplus after charges of the said distress and sale

Justice upon Information that any Person is reasonably suspected, &c. is to summon the party and evidence.

No. VI.
26 Geo. II. c. 31.

deducted, to be paid to the overseers for the use of the poor of the parish or place where such person or persons so offending shall live.

Persons disabled by Conviction to sell Ale, &c. disabled also from selling Spirituous Liquors, &c.

XI. And be it further enacted, That if any person shall be disabled by conviction to sell ale beer cyder or perry, such person shall by the same conviction be also disabled to sell any spirituous liquors or strong waters, any licence before obtained for that purpose notwithstanding; and every licence granted to the person so convicted to sell ale beer cyder perry spirituous liquors strong waters or any of them, from the time of such conviction shall be null and void; and every person selling ale beer cyder perry spirituous liquors strong waters or any of them, during the term of such disability, shall be subject to all or such of the penalties as are respectively inflicted by law for selling ale beer cyder perry spirituous liquors strong waters or any of them by retail without a licence; and in all prosecutions of such offenders a certificate from the clerk of the peace (or person acting as such) of any such conviction shall be legal evidence; which certificate such clerk of the peace or person shall grant on demand without fee or reward.

Distress & Sale.

XII. And be it further enacted, That every person so convicted of the offence of selling ale beer or other liquors without a licence from two justices of the peace, shall for every such offence forfeit the sum of forty shillings; (3) and for every such second offence shall forfeit the sum of four pounds; and for every such third offence shall forfeit the sum of six pounds; all which said respective forfeitures shall and may be levied by distress and sale of the goods and chattels of every such offender (rendering to him the overplus after charges of the said distress and sale deducted) by warrant under the hand and seal of the justice convicting such offender; and shall be paid one moiety thereof to the informer, and the other moiety thereof to the overseers of the poor, for the use of the poor of the parish or place where such offence was committed; and if no sufficient distress shall be found whereon to levy the said respective forfeitures, then the said justice of the peace shall and may commit every such offender so respectively convicted as aforesaid to the common gaol or other prison or house of correction within his jurisdiction, without bail or mainprize, for the space of one month for the first offence; and for the second offence for the space of two months; and for the third offence until such offender shall be discharged by order of the court of general quarter sessions.

For want of Distress, the Person to be committed.

Conviction to be certified.

XIII. And be it further enacted, That every conviction of any offender for selling ale beer or other liquors without such licence, or after being disabled to sell as aforesaid, shall be certified by the justices of the peace making the same to the next general or quarter session of the peace, to be filed or entered amongst the records of the said session; and that such conviction shall and may be drawn up and certified in the following form of words, as the case shall happen, or in any other form of words to the same effect, *mutatis mutandis*, that is to say,

Form of Conviction.

'*Middlesex.* } *A.B.* is convicted on his or her own confession [*or*, on the oath of of having sold ale beer or other liquors in the parish of in this county, on the day of without being licensed thereto according to law [*or*, after being disabled to sell, *as the case may be*]. Given under my hand and seal this day of '

And there shall be added, That the same is the first second or third conviction; which said conviction in the same or the like form of words shall be good and effectual in law to all intents and purposes, and shall not be quashed set aside or adjudged void or insufficient for want of any other form or words whatsoever.

Offender not liable to double Punishment.

XIV. Provided always, That such offender who shall be punished by virtue of this Act shall not be punished again for the same offence by any former Act; and that such offender who shall be punished by virtue

(3) These penalties are repealed and others are substituted by Stat. 35 Geo. 3. c. 113. post No. 8.

of any former Act shall not be punished again for the same offence by virtue of this present Act or any thing herein contained.

No. VI. 26 Geo. II. c. 31.

XV. Provided always, That this Act or any thing herein contained shall not in any wise be prejudicial to the privilege of licensing taverns and other public houses claimed by the two Universities of that part of *Great Britain* called *England*, for either of them, nor to the chancellor masters and scholars or any officers of the same or their successors, but that they may use and enjoy such privilege as they have heretofore lawfully used and enjoyed; any thing herein contained to the contrary notwithstanding.

Rights of Universities reserved.

XVI. Provided always, That nothing herein contained shall extend or be construed to extend to alter the time or times of granting such licences for keeping of common inns or alehouses, or to oblige persons not licensed the year preceding to produce certificates in any city or town corporate. (4.)

The Times of granting Licences for common Inns, not altered, &c.

XVII. Provided always, and be it enacted by the authority aforesaid, That any person shall be deemed a competent witness, and be admitted to give evidence upon any information or complaint for any offence committed against this Act, notwithstanding such person be an inhabitant of or charged or liable to be charged to the payment of any rates or assessments for the relief of the poor of any parish or place where such offence shall be committed.

Inhabitant of Parish competent Witness.

[No. VII.] 30 Geo. II. c. 24.—An Act for the more effectual Punishment of Persons who shall attain, or attempt to attain, Possession of Goods or Money by false or untrue Pretences; for preventing the unlawful Pawning of Goods; for the easy Redemption of Goods pawned; and for preventing Gaming in Public-houses by Journeymen, Labourers, Servants, and Apprentices.

P.

30 G. II. c. 24.

'XIV. AND whereas the occupiers of many licensed publick houses and of other houses wherein wines and liquors are sold frequently suffer gaming therein, and journeymen labourers servants and apprentices by means of such gaming therein not only mis-spend their time but are often reduced to poverty and great distress;' Be it therefore further enacted by the authority aforesaid, That from and after the said twenty-ninth day of *September* one thousand seven hundred and fifty-seven, if any person or persons licensed to sell any sorts of liquors, or who shall sell or suffer the same to be sold in his her or their house or houses, or in any outhouses ground or apartments thereto belonging shall knowingly suffer any gaming with cards dice draughts shuffle-boards Mississippi or billiard tables skittles nine pines or with any other implement of gaming in his her or their houses outhouses ground or apartments thereto belonging, by any such journeymen labourers servants or apprentices, and shall be convicted of the said offence on their own confession or on the oaths of one or more credible witness or witnesses before any justice or justices of the peace for the county riding division city liberty or place wherein the offence shall be committed, within six days after any such offence shall be committed, he she or they so offending shall for every such offence forfeit and pay the sum of forty shillings; and for every like offence which he she or they shall afterwards be convicted of before any such justice or justices of the peace, he she or they so offending shall forfeit the sum of ten pounds; all which sums of money so forfeited shall be levied by distress and sale of the offenders goods and chattels by warrant from the justice or justices before whom such offender or offenders shall be convicted; and which warrant every such justice or justices is and are hereby required and

Publicans permitting Journeymen, &c. to game in their Houses,

forfeit 40*s.*

and for every subsequent Offence 10*l.* to be levied by Distress and Sale.

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(4) This exception only applies to the time, and does not exempt such places from the operation of the other parts of the Act as to notices, &c. R. *v.* Downs, 3 T. R. 560.

No. VII.
30 Geo. II. c. 24.

authorised to grant; and three fourths of all sums which shall be so forfeited shall, on the recovery thereof, be paid to the churchwardens of the parish in which the offence shall be committed for the use of the poor of such parish; and the other fourth thereof shall be paid to the person or persons on whose information the party or parties offending shall have been convicted of the offence.

On complaint of Journeymen, &c. gaming in Public-houses, Justice to issue his Warrant for apprehending them, who upon Conviction are to forfeit not exceeding 20s. nor less than 5s.

XV. And be it further enacted by the authority aforesaid, That from and after the said twenty-ninth day of *September* one thousand seven hundred and fifty-seven, if any journeyman labourer apprentice or servant shall game in any house outhouse ground or apartments thereto belonging wherein any liquors shall be sold, and complaint thereof shall be made on oath before any justice or justices of the peace for the county riding division city liberty or place where the offence shall have been committed, every such justice or justices shall thereupon issue his or their warrant to some constable tythingman headborough or other peace officer of the parish precinct or place wherein the offence shall be charged to have been committed or where the offender shall reside, to apprehend and carry every such offender before some justice or justices of the peace acting for the county riding division city liberty or place where the offence shall be committed or where the offender shall reside; and if the person who shall be apprehended shall be convicted of the said offence by the oath of one or more credible witness or witnesses or on his own confession, every such offender shall forfeit any sum not exceeding twenty shillings nor less than five shillings, as the justice or justices before whom any such offender or offenders shall be convicted shall think fit and order every time he shall so offend and be convicted as aforesaid; and one fourth of all such money so forfeited shall, on the conviction of any such offender or offenders, be paid to the person or persons on whose information the party or parties offending shall be convicted, and the other three fourths thereof shall be applied for the use of the poor of the parish wherein the offence shall have been committed, and shall be paid to the overseers of the poor of the parish for that purpose; and if the party who shall be convicted of the offence last mentioned shall not forthwith pay down the said sum so forfeited by him, any such justice or justices shall by warrant under his hand or their hands commit every such offender to the house of correction or some other prison of the county riding division city liberty or place in which he shall be apprehended; there to remain and be kept to hard labour for any time not exceeding the space of one month, or until he shall pay the sum of money so forfeited.

Offender not paying the Forfeiture, to be committed to hard Labour.

Justice, upon Complaint, to issue his Warrant for bringing the Offenders before him,

XVI. And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for any justice or justices of the peace of any county riding division city liberty town or place, and he and they is and are hereby required, upon complaint made to him upon oath of any offence committed against this Act within the same county riding division city liberty town or place, to issue his warrant for bringing before him or some other justice or justices of the peace of any county riding division city liberty town or place the person or persons charged with such offence; and the justice or justices before whom such person or persons shall be brought is hereby authorised and required to hear and determine the matter of every such complaint, and to proceed to judgment and conviction thereupon as by this Act is directed; and if it shall appear by oath of any credible person or persons to the satisfaction of any such justice or justices that any person or persons within the jurisdiction of such justice or justices can give or offer material evidence on behalf of the prosecutor against any offender or offenders against the true intent and meaning of this Act, or on behalf of the person accused, and who will not voluntarily appear before such justice or justices to be examined, and give his her or their evidence concerning the premises; every such justice or justices is and are hereby authorised and required to issue his or their summons to convene every such person or persons within his or their jurisdiction before him or them to be examined upon oath concerning the premises; and if any person so summoned shall

and may summon Witnesses,

neglect or refuse to appear on such summons, and no just excuse shall be offered for such neglect or refusal, then (after proof by oath of such summons having been duly served upon him her or them for that purpose) any such justice or justices is and are hereby authorised and required to issue his or their warrant to bring every such witness and witnesses, within his or their jurisdiction, before him or them; and on the appearance of any such witness before any such justice or justices, any such justice or justices is and are hereby authorised and empowered to examine upon oath every such witness; and if any such witness, on his or her appearance or being brought before any such justice or justices, shall refuse to be examined on oath concerning the premises without offering any just cause for such refusal, it shall be lawful for any such justice or justices by warrant under his or their hand and seal or hands and seals to commit every person so refusing to the publick prison of the county riding division city or place in which the person or persons so refusing to be examined on oath shall be brought before any such justice or justices, there to remain for any time not exceeding three months, as any such justice or justices shall direct; and if, on such examination, any such justice or justices shall deem the evidence of any such witness or witnesses to be material, any such justice or justices may bind over any such witness, unless a feme covert or one under the age of twenty-one years, by recognisance in a reasonable penalty to appear and give evidence at the next general or quarter sessions of the peace, or sessions of *Oyer* and *Terminer*, as in such recognisance shall be mentioned.

and if the Witness refuses to give Evidence, he may be committed to hard Labour.

Material Witness may be bound over to give Evidence before a Court.

XVII. And be it further enacted by the authority aforesaid, That no persons charged on oath with being guilty of any of the offences punishable by this Act, and which shall require bail, shall be admitted to bail before twenty-four hours notice at least shall be proved by oath to have been given in writing to the prosecutor, of the names and places of abode of the persons proposed to be bail for any such offender or offenders, unless the bail offered shall be well known to the justice or justices, and he and they shall approve of them; and every such offender and offenders, who shall be bound over to the general quarter sessions of the peace, or gaol delivery of the county city or town wherein the offence charged on him shall have been committed, to answer any such offences punishable by this Act, shall be tried at such general quarter sessions of the peace or sessions of *Oyer* and *Terminer* and gaol delivery which shall be held next after his her or their being apprehended, unless the court should think fit to put off the trial on just cause made out to them. (1)

Offenders not to be admitted to Bail, till due Notice has been given to the Prosecutor, &c.

Offender to be tried at the next Session, unless the Court put off the Trial.

XVIII. Provided always, and be it enacted by the authority aforesaid, That in all actions suits trials and other proceedings in pursuance of this Act, or in relation to any matter or thing herein contained, any inhabitant of the parish town or place, in which any offence or offences shall be committed contrary to the true intent and meaning of this Act, shall be admitted to give evidence, and shall be deemed a competent witness, notwithstanding his her or their being an inhabitant or inhabitants of the parish town or place wherein any such offence or offences shall have been committed.

Inhabitants where the Offence is committed deemed competent Witnesses.

XIX. And be it further enacted by the authority aforesaid, That the justice or justices before whom any person shall be convicted in manner prescribed by this Act, shall cause such respective conviction to be drawn up in the form or to the effect following; that is to say,

Conviction to be drawn up in the following Form;

To wit. ‘ BE it Remembered, That on this day of
‘ in the year of his Majesty's
‘ reign, *A. B.* is convicted before of his Majesty's
‘ Justices of the Peace for the said county of or
‘ for the riding or division of the said county of
‘ or for the city, liberty or town of *(as the case*
‘ *shall happen to be)* for and the said
‘ do adjudge him or her to pay and forfeit for the
‘ same the sum of
Given under the day and year aforesaid.

(1) This clause relates to the offence first mentioned in the title.

No. VII. 30 Geo. II. c. 24.

and to be written on Parchment, and transmitted to the Quarter Sessions to be filed.

And the said justice or justices, before whom such conviction shall be had, shall cause the same so drawn up in the form aforesaid to be fairly written upon parchment, and transmitted to the next general quarter session of the peace to be held for the county riding division city town liberty or place wherein such conviction was had, to be filed and kept amongst the records of the said general or quarter sessions; and in case any person or persons so convicted shall appeal from the judgment of the said justice or justices to the said general or quarter sessions, the justices in such general or quarter sessions are hereby required, upon receiving the said conviction drawn up in the form aforesaid, to proceed to the hearing and determination of the matter of the said appeal according to the directions of this Act; any law or usage to the contrary notwithstanding.

Justices at the Quarter Sessions to determine Appeals.

Indictment or Conviction not removable by Certiorari.

XX. And be it further enacted by the authority aforesaid, That no *certiorari* shall be granted to remove any indictment conviction or other proceedings had thereon in pursuance of this Act.

Appeal may be made to the Quarter Sessions;

and Execution respited, the Party entering into Recognisance to prosecute the Appeal.

Justices to determine the Appeal, and award Costs.

On Affirmation of the Judgment, Appellant to pay the Fine and Costs.

XXI. Provided always, and it is hereby further enacted by the authority aforesaid, That if any person convicted of any offences punishable by this Act shall think him or herself aggrieved by the judgment of the justice or justices before whom he or she shall have been convicted, such persons shall have liberty to appeal to the justices at the next general or quarter sessions of the peace which shall be held for the county riding division city liberty town or place where such judgment shall have been given; and that the execution of the said judgment shall in such case be suspended, the person so convicted entering into a recognisance at the time of such conviction, with two sufficient sureties, in double the sum which such person shall have been adjudged to pay or forfeit, upon condition to prosecute such appeal with effect, and to be forthcoming to abide the judgment and determination of the justices in their said next general or quarter sessions; which recognisance the said justice or justices before whom such conviction shall be had is hereby empowered and required to take; and the justices in the said general or quarter sessions are hereby authorised and required to hear and finally determine the matter of the said appeal, and to award such costs as to them shall appear just and reasonable to be paid by either party; and if upon the hearing of the said appeal the judgment of the justice or justices before whom the appellant shall have been convicted shall be affirmed, such appellant shall immediately pay the sum which he or she shall have been adjudged to forfeit, together with such costs as the justices in the said general or quarter sessions shall award to be paid for defraying the expences sustained by the defendant or defendants in such appeal; or in default of making such payments shall suffer the respective pains and penalties by this Act inflicted upon persons respectively who shall neglect to pay or shall not pay the respective sums or forfeitures by this Act to be paid by or imposed upon persons respectively who shall be convicted by virtue of this Act.

None to be punished a second time for the same Offence.

XXII. And be it further enacted by the authority aforesaid, That no person who by virtue of this Act shall be punished for any offence or offences by him her or them committed, shall be punished for the same offence or offences under any other law or statute.

[General Issue.] [Double Costs.]

XXIII. [Clause in Act 24 G. II. c. 24. extended to Justices acting under this Act.]—[Notice to be given to Peace Officer before commencing suit against him.]—[Tender of Amends may be made by him, and pleaded in bar of the Action.]—[If none or insufficient Tender has been made, Plaintiff, upon a Verdict, to recover.

[No. VIII.] 32 Geo. III. c. 59.—An Act to amend so much of two Acts made in the Twenty-sixth and Twenty-ninth Years of the Reign of his late Majesty King *George* the Second, as relates to the licensing of Alehouse-Keepers and Victuallers; and for better regulating

Alehouses, and the Manner of granting such Licences in future; and also of granting Licences to Persons selling Wines to be drank in their Houses.

No. VIII.
32 Geo. III. c. 59.

32 Geo. III. c. 59.

Preamble.

Provisions of 26 Geo. 2. c. 31. and

29 G. 2. c. 12. recited.

'WHEREAS by an Act passed in the twenty-sixth year of the reign of his late Majesty King George the Second, intituled *An Act for regulating the Manner of licensing Alehouses in that Part of* Great Britain *called* England, *and for the more easy convicting Persons selling Ale and other Liquors without Licence*, it was amongst other things enacted, That if any licensed person should die or remove from an alehouse, it should be lawful for the person succeeding to such house to keep on the said alehouse during the residue of the term of such licence, on condition that within thirty days after such death or removal such person shall obtain such certificate as in the said Act is mentioned, to be signed by some neighbouring justice in order to its being produced at the general meeting in *September*; and if such certificate should not be obtained and signed within the said thirty days, then immediately from and after the expiration thereof such licence should be null and void: and whereas by a certain other Act passed in the twenty-ninth year of the reign of his late Majesty, intituled *An Act for granting to his Majesty a Duty upon Licences for retailing Beer Ale and other exciseable Liquors; and for establishing a Method for granting such Licences in* Scotland, *and for allowing such Licences to be granted at a Petty Session in* England, *in a certain Case therein mentioned*, it was (amongst other things) enacted, That if any person so licensed to sell ale beer or other exciseable liquor should die or remove from the alehouse or other place wherein such ale beer or other liquor should by virtue of such licence be sold, it should and might be lawful for the executors administrators and assigns of such person dying or removing who should be possessed of such house or place, or the occupier thereof, to sell ale beer or other liquors therein during the residue of the term for which such licence should have been granted to the person so dying or removing, without any certificate from any justice of the peace or any new licence to be had or obtained in that behalf, any thing in the said Act made in the twenty-sixth year of the reign of his late Majesty or any other law to the contrary thereof in anywise notwithstanding. And it was by the said Act further enacted, That in case any alehouse or victualling-house in that part of *Great Britain* called *England* should become empty or unoccupied after the general day appointed for licensing (the occupier whereof was duly licensed the year preceding,) it should be lawful for any two or more of his majesty's justices of the peace at a petty session to grant a licence to any new tenant or occupier to open such house as an alehouse or victualling-house and to sell ale there till the next general licensing day, so as the said licence be stamped as therein directed, such new tenant or occupier obtaining such certificate as is directed and prescribed in and by an Act of Parliament made in the twenty-sixth year of his Majesty's reign, intituled *An Act for regulating the manner of licensing Alehouses in that Part of* Great Britain *called* England, *and for the more easy convicting Persons selling Ale and other Liquors without Licence*: And whereas it is expedient that some other provision should be made respecting the continuance of the licences of alehouses or victualling-houses in cases of persons so dying or removing thereout as aforesaid, and that some further regulation should be made respecting the granting of licences for the sale of ale beer and other liquors by retail, and for the better government of alehouses or victualling-houses in that part of *Great Britain* called *England*, the dominion of *Wales*, and the town of *Berwick upon Tweed*:' Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That the above recited provisions in the said Acts of the twenty-sixth and twenty-ninth years of his late Majesty's reign, so far as the same relate to such parts of *Great Britain*, shall be and

Recited Provisions repealed so far as they relate to England, Wales, and Berwick upon Tweed.

No. VIII.
32 Geo. III.
c. 59.

From July 31, 1792, if Alehouse-keepers die or remove, &c. before the Expiration of their Licences, new ones may be granted to Executors or new Tenants, till the next licensing day, on certain Conditions.

the same are hereby repealed; and that from and after the thirty-first day of *July* one thousand seven hundred and ninety-two, if any person duly licensed to keep an alehouse inn victualling-house or to sell ale beer or other exciseable liquors by retail in any house within that part of *Great Britain* called *England*, the dominion of *Wales*, or the town of *Berwick upon Tweed*, shall happen to die before the expiration of such licence, or if any person so licensed or the executors administrators or assigns of any person dying so licensed, shall remove from or yield up the possession of such house in which such ale beer or other liquors shall by virtue of such licence be sold, and shall assign such licence, or in case any such house shall become empty or unoccupied, the late occupier whereof was duly licensed at the last general licensing day in *September* previous to the time such house became empty or unoccupied (1), then and in every such case (except as herein is otherwise provided) it shall and may be lawful for two or more of his Majesty's justices of the peace for the county riding division or place at a petty session to be holden within and for the same division in which such house shall be situate, to grant a licence to the executors administrators or assigns of the person so dying who shall be possessed of such house, or to any new tenant or occupier upon such removal, or the house becoming empty or unoccupied as aforesaid, to open or continue open such house as an alehouse or victualling-house, and to sell ale beer and other liquors aforesaid there till the next general licensing day, so as the said licence be stamped (2) as by the aforesaid statutes in that behalf is directed; or for the said justices in their discretion to allow to such executors or administrators or other persons aforesaid, possessed of any such licence, to continue open such house for the purpose aforesaid under and by virtue of such licence until the expiration thereof, every such executor administrator or assign and every such tenant or occupier respectively in every such case obtaining within thirty days after such death or removal, or after his or her entering upon the possession of such house and producing to the said justices such certificate and entering personally into such recognisance with such sureties as is directed by the said in part recited Act of the twenty-sixth year of his said late Majesty, in respect to persons to whom licences are to be granted by virtue of the said Act; which said certificate and recognisance, with the condition thereof fairly written or printed and attested by the justices granting or allowing such licence, shall forthwith or at the next general or quarter sessions of the peace at farthest after granting such licences be sent or returned to the clerks of the peace to be by them or other persons acting as such duly entered or filed amongst the records of the sessions of the peace.

Certificates and Recognisances required by this Act to be sent to the Clerk of the Peace to be recorded.

In Middlesex and Surrey, the Justices at the General Licensing Meetings to appoint special ones, &c.

II. Provided always, and be it further enacted by the authority aforesaid, That in the respective counties of *Middlesex* and *Surrey* the justices assembled at the general licensing meetings holden for the respective divisions within the same shall have full power and authority, and they are hereby directed and required, to appoint not less than six nor more than eight special days of meeting at different equal periods as near as may be in each year next ensuing such general licensing meetings; on which days it shall and may be lawful for two or more justices acting in

(1) In the editions of Burn, published since the passing of this Act, it is observed, that where the tenant intending to remove hath not taken out a licence for that year, his successor may obtain a licence until the next licensing day by applying to the justices, and making it appear to them that he is a person proper to receive a licence, and also making it appear that the house is proper to be licensed, whereof the proof must be, its having been licensed the year next before. But there is nothing in the Act itself to warrant the construction that if the house is actually occupied at the general licensing day, but no licence is applied for, much less if a licence has been applied for and refused, any licence can be granted in the course of the year upon a change of tenant. The power is expressly confined to cases where the house was duly licensed on the licensing day previous to the time when it became empty.—An opinion to the same effect has been given by the present Solicitor-General (Sir S. Shepherd) to the magistrates of the county of Lancaster.—The observation was correct as originally applied by Burn to the Statute 29 G. 2. c. 12, hereby repealed.

(2) By statute 48 Geo. 3. c. 143. Post No. 12. the stamp duties on licences are repealed, and Excise licences substituted for them.

and for the said divisions to meet and to grant or continue licences in the cases and in the manner and for the time herein-before mentioned; and the justices assembled at the said general licensing meetings are hereby directed and required to cause due notice to be given of the times and places at which such special meetings shall respectively be holden.

At which they may grant to licensed Persons removing, &c. and producing the necessary Certificates, &c. a Continuance of Licences, &c.

III. And be it further enacted by the authority aforesaid, That if any person so licensed as aforesaid within the said counties of *Middlesex* and *Surrey*, or the executors administrators or assigns of any person dying so licensed, shall remove from such house or yield up the possession thereof in manner aforesaid, or in case any such house within the respective counties aforesaid shall be or become empty or unoccupied in manner aforesaid, then and in every such case before such licence shall be continued, or a new licence granted to open or continue open any such house as an alehouse inn or victualling-house, the person or persons so succeeding as the occupier or occupiers thereof shall appear at the next special meeting to be holden for the division wherein such house shall be situated; and the justices assembled at such special meeting shall and may (upon such certificate being produced to them, and such recognisances being entered into as is herein-before mentioned) grant a licence to such new tenant or occupier, or in their discretion allow a continuance of any licence before granted in manner aforesaid, to open or continue open such house as an alehouse inn or victualling-house, and to sell ale beer and other exciseable liquors there until the next general licensing-day; any thing in the Act contained to the contrary thereof notwithstanding.

No new Licenses to be granted at Petty Sessions to Houses not licensing at the General Licensing Day.

IV. Provided always and be it enacted, That nothing in this Act contained shall extend or be construed to extend to empower any justices of the peace at any petty sessions to grant any new licence to any house, the occupier whereof was not duly licensed at the general licensing day next before such petty sessions as aforesaid.

The Times of granting Licences not hereby altered, nor Persons not licensed the Year preceding, obliged to produce Certificates in London.

V. Provided always and be it further enacted, That nothing herein contained shall extend or be construed to extend to alter the time or times of granting licences for keeping of common inns or alehouses, or to oblige persons not licensed the year preceding to produce certificates in the city of *London*.

Persons entering into licensed Houses, without the Authority of the Justices liable to Penalty.

VI. And be it further enacted by the authority aforesaid, That every person so entering into the possession of any licensed alehouse inn or victualling-house who shall sell any ale beer or other exciseable liquors, unless authorised and empowered so to do by the justices at the petty sessions next ensuing after the expiration of such thirty days in the manner herein-before directed, shall from thence be liable to all the penalties punishments and forfeitures to which persons selling ale beer or other liquors by retail without a licence are subject by an Act passed in the fifth year of the reign of his present Majesty, intituled, *An Act for altering the Stamp Duties upon Admissions into Corporations or Companies, and for further securing and improving the Stamp Duties in* Great Britain; any law statute or usage to the contrary notwithstanding.

Persons obtaining the necessary Certificate, indemnified till the Petty Sessions.

VII. Provided always nevertheless, and be it further enacted, That the certificate herein-before directed to be obtained by the person or persons requiring to be licensed, shall after the obtaining thereof be an indemnity to him her or them for selling any beer ale or other exciseable liquors till after such petty sessions shall have been held.

Clerk of the Peace to record the Continuance of Licences, &c.

VIII. And be it further enacted by the authority aforesaid, That in all cases where the continuance of a licence shall be allowed, or a new licence shall be granted as aforesaid, by the justices at any petty sessions, the clerk of the peace for the county riding division or place where the house is situate shall record the same, and shall be paid the sum of one shilling for recording the allowing or granting of every such licence and no more.

From Oct. 10, 1792, no Person to sell Wine by Retail, to be drawn in his House, without having a Beer Licence.

IX. And be it further enacted by the authority aforesaid, That from

No. VIII.
32 Geo. III. c. 59.

and after the tenth day of *October* one thousand seven hundred and ninety-two, it shall not be lawful for any person or persons whatever, in any county riding city borough town corporate or place in *Great Britain*, by virtue of any licence or licences granted or to be granted by any of the commissioners or officers of Excise, for the sale of foreign wines or *British*-made wines or sweets by retail, to sell the same by retail, to be drank in his her or their house or houses or place thereto adjoining or belonging, except such person and persons only to whom a licence shall have been granted by justices of the peace or other officers to sell ale beer and other liquors in the same house or houses respectively; and the several justices of the peace and all other officers in and throughout the kingdom of *Great Britain*, shall be and are hereby empowered and authorised to have and exercise the same jurisdictions powers and authorities over such retailers of foreign or *British*-made wines or sweets, who shall sell the same to be drank in his her or their house or houses or place thereto adjoining or belonging as aforesaid, as they now have or exercise or are entitled to have or exercise over persons licensed to sell ale beer and other liquors by any statute whatsoever; and if any person or persons shall sell or cause to be sold by retail as aforesaid any foreign or *British*-made wines or sweets, to be drank in his her or their house or houses or place thereto adjoining or belonging, without having a licence to sell ale beer and other liquors in the same house or place, every such person or persons shall severally and respectively forfeit and pay for every such offence the like penalty and penalties as are inflicted on persons for selling ale beer or other exciseable liquors without a licence, by an Act made in the fifth year of the reign of his present Majesty, intituled, *An Act for altering the Stamp Duties upon Admissions into Corporations or Companies, and for securing and improving the Stamp Duties in* Great Britain, to be adjudged recovered levied certified and applied in such and the like manner and under the like terms and with the like powers and authorities as the several penalties inflicted by the said Act are hereby or by any other Act or Acts of Parliament relating thereto directed to be adjudged recovered levied certified and applied.

Justices to have the same Jurisdiction over such Retailers of Wine, as they have over Sellers of Beer.

Penalty for selling Wine by Retail without having a Beer Licence.

5 Geo. 3. c. 45.

General Issue.

X. And be it further enacted, That if any person or persons shall at any time be sued molested or prosecuted for any thing by him or them done or executed in pursuance of this Act, or of any clause matter or thing herein contained, such person or persons shall or may plead the general issue, and give the special matter in evidence for his or their defence; and if upon the trial a verdict shall be passed for the defendant or defendants, or the plaintiff or plaintiffs become nonsuited, then such defendant shall have treble costs awarded to him or them against such plaintiff or plaintiffs.

Treble Costs.

Not to extend to the Vintners Company, &c.

XI. Provided always, and be it further enacted by the authority aforesaid, That nothing in this Act contained shall extend or be construed to extend to any person who shall be a master warden freeman or one of the commonalty of the Vintners of the city of *London;* or to any person who shall be licensed by the chancellors or vice chancellors of the two Universities in that part of *Great Britain* called *England*, or either of them; or to any person who shall keep one of the three several wine taverns within the borough of *Saint Albans* in the county of *Hertford*, licensed by the mayor and burgess thereof, according to the tenor of certain letters patent granted by Queen *Elizabeth* and King *James* the First, for and towards the maintenance of the free school there: Provided nevertheless, That no person who, from and after the said tenth day of *October* one thousand seven hundred and ninety-two, shall be admitted to the freedom of the said company of Vintners of the city of *London* by redemption only, shall be exempted from the obligation of obtaining a licence to retail ale beer and other liquors to be granted in manner aforesaid, but that the freemen only of the said company who have been already admitted to their freedom, or who from and after the said tenth day of *October* one thousand seven hundred and ninety-two shall be admitted to their freedom in right of patrimony or apprenticeship shall be entitled to such exemption.

Freemen of the Vintners Company by Redemption, after Oct. 10, 1792, not exempted from this Act.

No. IX.
35 Geo. III.
c. 113.

[No. IX.] 35 Geo. III. c. 113.—An Act for the more effectual Prevention of selling Ale and other Liquors by Persons not duly licensed.—[26*th June* 1795.]

35 Geo. III. c. 113. 5 Geo. 3. c. 46. in part recited.

'WHEREAS by an Act made in the fifth year of the reign of his present Majesty, intituled *An Act for altering the Stamp Duties upon Admissions into Corporations or Companies, and for further securing and improving the Stamp Duties* in Great Britain; after reciting that by the laws then in force in that part of *Great Britain* called *England* and dominion of *Wales* and town of *Berwick upon Tweed*, persons selling ale or beer or other exciseable liquors by retail without licence were liable and subject by different laws to different penalties and punishments, which had occasioned much confusion, and an ill and improper use had been made thereof in many instances; For the prevention whereof it was enacted, That from and after the fifth day of *July* one thousand seven hundred and sixty-five, every person lawfully convicted of selling ale or beer or other exciseable liquors by retail after that day in that part of *Great Britain* called *England* the dominion of *Wales* or town of *Berwick upon Tweed*, without being duly licensed so to do, should for every such offence forfeit and undergo the several penalties and punishments therein-after mentioned and provided in that behalf, instead and in lieu of the several pecuniary and corporal punishments which they were then liable or subject to by any law then in force; that is to say, For the first offence the sum of forty shillings, and also the costs and expences of convicting such offender; and in case such sum, together with the charges and expences of convicting such offender, should not be paid within the space of fourteen days next after such conviction, that then the offender should suffer imprisonment for the space of one month, unless he or they should sooner pay such penalty and the costs charges and expences of such conviction and executing the same; and for the second offence the sum of four pounds, and also the costs and expences of convicting such offender; and in case such sum, together with the charges and expences of convicting such offender the second time, should not be paid within the space of one week next after such conviction, then the offender should suffer imprisonment for the space of two months, unless he or they should sooner pay such penalty of four pounds and the costs charges and expences of such second conviction and executing the same; and for the third offence the sum of six pounds, and also the costs and charges of convicting such offender; and in case such sum of six pounds, together with the charges and expences of convicting such offender the third time, should not be paid within the space of three days next after such third conviction, that then the offender should suffer imprisonment for the space of three months, unless he or they should sooner pay such penalty of six pounds and the costs charges and expences of such third conviction and executing the same, and the like penalty and punishment for every other offence after the third offence and conviction thereof as for the said third offence; all which said costs and expences should be assessed settled and ascertained by the justice or justices of the peace before whom such offenders should respectively be convicted; any law statute or custom to the contrary thereof in any wise notwithstanding; all which penalties and forfeitures should go and be paid, the one moiety thereof to his Majesty his heirs and successors, and the other moiety thereof and also the costs charges and expences to be assessed or ascertained as aforesaid to the prosecutor or prosecutors of every such offender or offenders: And whereas by reason of many evasions still made use of, and of defects in the powers of the laws now in force, it is difficult to convict offenders against them:' For remedy whereof, be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That so much of the said Act as is above recited shall be and is

Recited Part of 5 Geo. 3. c. 46, repealed.

No. IX.
35 Geo. III. c. 113.

From Sept. 20, 1795, Persons selling or permitting to be sold in their Houses exciseable Liquors by Retail without Licence, liable to penalty.

hereby repealed; and that from and after the twentieth day of *September* one thousand seven hundred and ninety-five if any person shall sell ale or beer or any other exciseable liquors by retail, or shall permit or suffer any ale or beer or any other exciseable liquors to be sold by retail in his her or their house outhouse or yard garden orchard or other places, in that part of *Great Britain* called *England* the dominion of *Wales* and town of *Berwick upon Tweed*, without being duly licensed so to do, and shall thereof be duly convicted, every such person so offending shall for every such offence forfeit and pay the sum of twenty pounds, and also the costs and expences attending the conviction, to be levied and recovered as herein is directed; and on and after a second conviction for the like offence shall also be rendered incapable of being thereafter licensed to keep an alehouse or to sell ale or beer or other exciseable liquors by retail.

Justices may determine Complaints.

II. And be it further enacted by the authority aforesaid, That it shall and may be lawful for any one or more justice or justices of the peace for the time being of the county riding division or place where such offence shall be committed to hear and determine the same in a summary way; which said justice and justices is and are hereby respectively authorised and required, upon information exhibited or complaint made to or before him or them in that behalf, to summon the party or parties accused and also any person or persons as a witness or witnesses on either side, and upon appearance, or contempt by not appearing, of the party or parties accused, to proceed to hear the matter in a summary way and also to examine any witness or witnesses on oath and to give judgment therein; and upon proof of the offence either by confession of the party or parties or upon the oath of one or more credible witness or witnesses to convict the party or parties so accused or complained against of the offence laid to his her or their charge; and in case the party or parties so convicted shall not, at the time and place of conviction if present, (or if absent) within the space of three days after notice, either personally served upon the party or parties or left for him her or them at the place where the offence shall have been committed, according to the directions of this Act, pay the penalty or penalties for which he she or they shall stand convicted, together with the costs and expences attending the same, which said costs and expences shall be ascertained and fixed by the justice or justices convicting the offender or offenders; that then and in every such case it shall be lawful for such justice or justices and he and they is and are hereby required to issue his or their warrant or warrants of distress, empowering the person or persons to whom the same shall be directed to make distress of the goods and chattels of such offender or offenders wheresoever they shall or may be found, within the jurisdiction of the justice or justices convicting such offender or offenders, and also any goods and chattels found or being in the house outhouse cellar vault storehouse or other place in which such offence shall have been committed, or which shall be found or be in any house outhouse cellar vault or other storehouse belonging to or occupied therewith, or which shall be found or be in any house outhouse cellar vault storehouse or other place which shall have been entered at the Excise office for keeping or laying any beer or ale cyder or perry therein by or in the name or names of such offender or offenders; and on the goods and chattels so distrained the officer or officers executing such warrant or warrants as aforesaid shall proceed to levy the sum or sums expressed in such warrant or warrants in manner directed in and by an Act made in the twenty-seventh year of the reign of his late Majesty King *George* the Second, intituled *An Act for the more easy and effectual Proceeding upon Distresses to be made by Warrants of Justices of the Peace*, and all the powers and provisions of the said Act; and also of an Act made in the thirty-third year of the reign of his present Majesty, intituled *An Act to authorise Justices of the Peace to impose Fines upon Constables Overseers and other Peace and Parish Officers for Neglect of Duty; and on Masters of Apprentices for ill Usage of such their Apprentices; and also to make Provision for the Execution of Warrants of Distress granted by Magistrates;*

If Penalties be not paid, they may be levied by Distress.

Officers to execute Warrants agreeably to 27 Geo. II. c. 20;

the Provisions of which, and of 33 Geo. 3. c. 55. as to Execution of Warrants, to extend to this Act.

as far as the same relate to the execution of warrants of distress, shall be extended applied and put in execution in relation to warrants of distress to be granted by virtue of this Act, as fully and amply as if the same powers and provisions had been severally repeated and re-enacted in this Act.

Distress may be sold within Four Days.

III. Provided always and be it further enacted, That at the request of the owner or owners of the goods so distrained the same may be sold at any time within the four days allowed by the said Act of the twenty-seventh year of his late Majesty.

Allowance to Officers.

IV. And be it further enacted, That there shall be paid and allowed to the officer or officers executing such warrant or warrants of distress for the safe keeping of the goods and chattels so distrained, for each day such goods and chattels shall be in his or their custody, such sum not exceeding five shillings *per diem*, and for any person or persons acting therein in the aid and assistance of such officer or officers, such sum not exceeding two shillings *per diem* for each such person as the convicting justice or justices shall allow and direct to be paid, due proof being first made on oath to the satisfaction of such justice or justices that sufficient cause existed for calling in the aid and assistance of such person or persons.

Application of Penalty.

V. And be it further enacted, That one moiety of the penalty so levied shall be paid to the informer and the other moiety thereof to the use of the poor of the parish township or place in which the offence shall have been committed, in such manner as the justice or justices as aforesaid shall direct and appoint; and if the person or persons authorised to execute such warrant or warrants or any or either of them shall make a return thereto that no sufficient distress can be found whereon to levy the penalty and costs and charges as aforesaid, then it shall and may be lawful for any justice or justices of any county riding division or place within whose jurisdiction the party or parties against whose goods and chattels such warrant of distress shall have been issued shall at any time be found, upon producing to such justice or justices such warrant and return thereof, (and if such justice or justices shall be of any other county riding division or place, then upon oath made of the hand-writing of the justice or justices granting such warrant of distress and of the truth of such return) to commit such offender or offenders to the common gaol or other prison within the limits of his or their jurisdiction, for any term not exceeding six calendar months nor less than three calendar months, unless the said penalty or penalties, with the costs charges and expences of all proceedings attending the conviction and warrant of distress shall be sooner paid and satisfied.

If sufficient Distress cannot be found, the Justice may commit the Offender.

VI. 'And whereas many persons do presume to carry on and exercise 'the trade of alehouse-keeper and victualler and retailer of beer and ale 'without licence, and to make entry of houses outhouses cellars vaults 'or storehouses, for laying or keeping such beer or ale by assumed or 'feigned names, and such beer and ale is frequently retailed in houses 'outhouses or other places detached from their place of residence, 'whereby the purposes of the law have been and still continue to be 'evaded;' Be it further enacted, That in case any summons shall be issued by any justice or justices of the peace for any person or persons to appear and answer to any information or complaint for selling by retail any beer ale or other exciseable liquors without licence, the directing such summons to such person by the name in which such person shall have entered any house outhouse cellar vault or storehouse for laying or keeping of beer or ale, or in the names by which such person or persons is or are or has or have been usually known, whether the same be the real and proper or the assumed or feigned names of such person or persons; and the leaving such summons at the house outhouses cellar vault or other storehouse or place in which such offence is stated in any information to have been committed, and affixing a copy thereof on the door or other conspicuous part on the outside thereof, (such service being proved on oath of the person or persons who shall have so served such summons, and so affixed such copy,) shall be deemed and is hereby declared

What shall be deemed legal Notice to Persons summoned to answer Informations for selling Liquors by Retail without Licence.

No. IX.
35 Geo. III. c. 113.

to be as legal and effectual a notice or summons to all intents and purposes, as if the same was personally given or delivered to or unto the hands of the party or parties to whom the same shall be directed; and as if the same was directed to the party or parties by his her or their proper and real name or names.

Retailers to make previous Entry of all Places used for laying Beer, &c.

VII. And be it further enacted, That every alehouse-keeper victualler or retailer of beer or ale, who shall take or receive into or have in his her or their custody possession or power any beer or ale to sell or dispose thereof by retail, shall at least three days before he she or they shall begin so to sell or dispose of any such ale or beer, make a true and particular entry in writing at the office of Excise next to the place where such ale or beer shall be intended to be sold and disposed of, of all and every house outhouse cellar vault room store-house or other place used or to be used for laying or keeping any such beer or ale or for selling the same; and which said entry shall set forth the true name or names of the person or persons so making such entry, and shall also express whether the person making the same be an alehouse-keeper victualler or retailer; and such person or persons shall be deemed to be the occupier or occupiers proprietor or proprietors of all and every house outhouse cellar vault room storehouse or other place so entered for laying or keeping such ale or beer or for selling the same, so long as such entry shall remain in force or such ale or beer shall be or remain in the custody possession or power of the person or persons making such entry; and if any person or persons shall, contrary to the directions of this Act, make use of any house outhouse cellar vault room storehouse or other place, for the laying keeping or selling of beer or ale to be sold or disposed of by retail, without having made such entry as aforesaid, he she or they shall respectively forfeit for every default or neglect the sum of fifty pounds, to be sued for and recovered levied mitigated and distributed in such manner as is directed by any law now in force with regard to penalties and forfeitures on offences against the laws relating to the Excise; and all storehouses cellars rooms or other places used by any such innkeeper victualler or other retailer, for the purpose of laying or keeping any beer or ale or worts in cask without being so entered, shall be deemed and taken to be private and concealed storehouses cellars or places, within the meaning of all each and every Act and Acts of Parliament now in force in relation to private and concealed storehouses cellars or places for the keeping or laying exciseable liquors.

Penalty of 50*l.* for not making Entry.

Places not entered, to be deemed concealed Places.

Beer, &c. and Goods and Chattels, found where any Offence is committed, &c. to be liable to Distress.

VIII. And be it further enacted, That all beer ale cyder perry and other exciseable liquors, together with all other goods and chattels found in every and any house outhouse cellar vault storehouse or other place where any such offence as aforesaid shall have been committed, or in any house outhouse cellar vault storehouse or other place belonging thereto or occupied therewith, or which shall have been entered as aforesaid at the Excise Office, for laying or keeping therein any beer or ale cyder or perry, by or in the name or names of the person or persons convicted, by whom or by what title or conveyance soever the same may be claimed, shall be liable to such warrant or warrants of distress to satisfy all penalties costs and charges incurred by any person or persons for any offence or offences committed within or upon the same premises or any part thereof as aforesaid; and it shall be lawful to levy the penalties and costs and charges, and use such proceedings in respect of the same, as it is lawful to do in case the offender or offenders had been truly and really the owner or owners or proprietor or proprietors of the same.

Persons making Entry to be deemed Retailers.

IX. And be it further enacted by the authority aforesaid, That every person who shall make any entry at any office of Excise of any house outhouse cellar vault storehouse or other place for laying or keeping of any beer or ale, or for selling the same therein as an alehouse-keeper victualler or retailer, shall be deemed a seller by retail of such liquors to all intents and purposes; and that it shall and may be lawful for any justice of the peace from time to time to summon before him or before any other justice or justices any entry keeper gauger or other excise officer having

Justices may summon Excise Officers to produce Entries and Stock Books, and may examine them on Oath;

the custody of entries made by innkeepers victuallers and retailers of beer or ale within his division, who shall, when required, produce before such justice or justices all and every entry or entries made at the office of Excise by any person or persons within the division of such officer, and also the stock books or other accounts of survey of such persons respectively; and such justice or justices shall and may examine on oath such officer or officers respecting any such entry or entries of any houses outhouses cellars vaults storehouses or other places for keeping beer or ale, or respecting any stock of any person or persons making such entries; and if it shall appear that any person hath made entry or entries at the office of Excise of any house outhouse cellar vault storehouse or other place for laying or keeping any beer or ale therein, or for selling the same as an alehouse-keeper victualler or retailer, or if it shall appear that any such person is surveyed as an alehouse-keeper victualler or retailer and has not received or is not entitled to receive the abatement of duty allowed to common brewers, then and in such case it shall and may be lawful for such justice or justices to summon before him or them such person or persons to produce to such justice or justices his her or their licence or licences to sell beer and ale, and if such person or persons shall not at the return of such summons appear before such justice or justices, or appearing shall not produce to such justice or justices a licence or licences duly obtained and in force, it shall be lawful for such justice or justices (proof being made of due service of such summons according to this Act, in case the party or parties shall not appear) to adjudge the party or parties guilty of selling beer or ale by retail without licence, and the party or parties so adjudged shall be liable to the penalties herein imposed on persons retailing beer or ale without licence.

and may summon Retailers to produce Licences; and for not producing them, may adjudge the Defaulters guilty.

X. And be it further enacted, That if any person shall be summoned to appear as a witness to give evidence before any justice or justices of the peace touching the matters aforesaid, either on the part of the prosecutor or of the person or persons accused, and shall neglect or refuse to appear at the time and place to be for that purpose appointed without a reasonable excuse for such his or her neglect or refusal, (to be allowed by such justice or justices of the peace,) or appearing shall refuse to be examined on oath and give evidence to such justice or justices of the peace before whom the prosecution shall be depending, then that every such person shall forfeit for every such offence the sum of ten pounds to be levied by warrant of distress; and if no sufficient distress can be found then the said justice or justices before whom and in whose contempt the offence was committed shall and may commit such offender to the common gaol or other prison within his or their jurisdiction for any term not exceeding the space of six calendar months, unless the penalty shall be sooner paid; and such penalty shall be applied to the use of the poor of the parish township or place in which such offence shall have been committed in such manner as the justice or justices so convicting shall direct and appoint.

Penalty of 10*l.* on Witnesses not attending Summonses, to be levied by Distress, and if sufficient cannot be found, the Party may be committed.

Application of Penalty.

XI. And be it further enacted, That if any person or persons whatsoever, after service of any summons to appear and answer to any charge of selling ale or beer or other exciseable liquors without licence shall convey away any goods or chattels herein-before made liable to any warrant of distress from the house outhouse cellar vault storehouse or other place wherein such offence shall have been committed, or from any house outhouse cellar vault storehouse or other place belonging thereto or occupied therewith, or from any house outhouse cellar vault or other storehouse or place which shall have been entered at the office of Excise by or in the name or names of the person or persons convicted for keeping or laying of beer or ale or for selling the same; it shall and may be lawful for the officer to whom such warrant is directed, or other person or persons lawfully empowered or acting in his aid or assistance, within thirty days after such conveying away to seize the same wherever they may be found, and dispose of them in such manner as if they had been distrained on the premises: Provided always, that if any of the goods or

Goods liable to Seizure may be distrained wherever found.

Justices may indorse Warrants for seizing Goods removed into their Jurisdictions.

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35 Geo. III. c. 113.

chattels so removed shall be carried into any county riding city liberty or place out of the jurisdiction of the magistrate or magistrates originally issuing such warrant of distress, it shall be lawful for any justice of the peace of any county riding city liberty or place into which such goods or chattels shall be so removed or conveyed, and he is hereby required on proof on oath of the hand-writing of such justice or justices originally signing such warrant to indorse his name on the back thereof, which shall be sufficient authority to any person or persons bringing such warrant, and to all other persons to whom such warrant was originally directed to execute such warrant of distress, and to proceed in such manner as if such goods had been found and seized within the jurisdiction of the justice or justices who signed the original warrant.

Appeal may be made to the Quarter Sessions within a certain Time, and on certain Conditions.

XII. And be it further enacted, That if any person shall think himself or herself aggrieved by the judgment of any justice or justices of the peace by or before whom he or she shall have been convicted of the offences aforesaid, any and every such person may appeal (and the said justice or justices are required to make known to such person at the time of such conviction his or her right to appeal) from and against such conviction to the next general quarter sessions of the peace to be holden for such county riding city division liberty or place, unless such sessions shall be holden within six days next after such conviction shall be made, and in such case to the next subsequent sessions to be holden as aforesaid and not afterwards, such person at the time of such conviction giving to such justice or justices notice in writing of his or her intention to appeal, and also giving security, to the satisfaction of such justice or justices, for the payment of the penalty costs and expences aforesaid, in case such judgment shall be confirmed on such appeal, and also further entering into a recognisance at the time of such notice with sufficient sureties conditioned to try the appeal, and to abide the judgment and pay such costs as shall be awarded by the justices assembled at such sessions; and the justices so assembled shall thereupon proceed to hear and determine the matter of every such appeal, and their judgment thereon shall be final and conclusive to all intents and purposes whatsoever; and in case the justices of the peace so assembled at such session shall find and adjudge any such appeal to be frivolous or vexatious, it shall and may be lawful to and for them to give and adjudge to the party or parties grieved by such appeal his her or their reasonable costs and charges occasioned thereby, not exceeding in the whole the sum of five pounds on any one appeal.

Sessions finally to determine Appeals, and may adjudge Costs.

Convictions in the Form set forth by 26 Geo. II. cap. 31. to be good.

XIII. And in order to prevent frivolous and vexatious appeals be it further enacted by the authority aforesaid, That a conviction in the form or to the effect expressed and set forth in an Act made in the twenty-sixth year of the reign of his late Majesty King *George* the Second, intituled *An Act for regulating the Manner of licensing Alehouses in that Part of* Great Britain *called* England, *and for the more easy convicting Persons selling Ale and other Liquors without Licence,* mutatis mutandis, as the case shall happen to be, shall be good and effectual to all intents and purposes whatsoever, without stating the case or the facts or evidence in any more particular manner.

Justices may mitigate Penalties.

XIV. And be it further enacted, That if it shall be proved to the satisfaction of the justice or justices before whom any person shall be convicted of any offence against this Act, that such person hath not been before convicted of any offence against this Act, it shall be lawful for such justice or justices to mitigate and lessen the penalty hereby imposed, in case of such first offence but not otherwise, so as that the penalty so mitigated and lessened shall not be less than ten pounds.

Inhabitants may be Witnesses.

XV. Provided always, and be it enacted, That any inhabitant of any parish township or place in which any offence shall be committed contrary to this Act, shall be deemed a competent witness, notwithstanding his or her being an inhabitant of such parish township or place.

Penalties to be determined in Six Months.

XVI. Provided always, and it is enacted, That all penalties within this Act shall be sued for and determined within six months after the offences shall be committed;

XVII. Provided also, and be it enacted, That nothing in this Act contained shall extend or be construed to extend to prohibit any person or persons from selling of any ale or beer in booths or other places, at the time and place of holding any lawful and accustomed fair, in like manner as such person or persons was or were authorised to do before the passing of this Act, by virtue of any law or statute in that behalf.

No. IX. 35 Geo. III. c. 113.

Act not to prohibit selling Ale or Beer at Fairs.

[No. X.] 38 Geo. III. c. 54.—An Act to amend several Laws of Excise relating to Coachmakers, Auctioneers, Beer and Cyder exported, Certificates and Debentures, Stamps on Hides and Skins, Drawbacks on Wines and Sweets, and Ale and Beer Licences.—[21st *June* 1798.]

P.

XIII. AND whereas by an Act made in the thirty-fifth year of the reign of his present Majesty, intituled *An Act for the more effectual Prevention of selling Ale and other Liquors by Persons not duly licensed*, it was enacted, That no person should sell ale or beer by retail, in his her or their house in that part of *Great Britain* called *England*, without being duly licensed so to do under a certain penalty therein provided: And whereas it is expedient to exempt persons from the said penalty, for or in respect of any such sale of beer or ale as is hereinafter mentioned;' Be it therefore enacted by the authority aforesaid, That no person shall be liable to the said penalty for or by reason of his or their selling or disposing of beer or ale in casks containing not less than five gallons, or in bottles not less than two dozen reputed quart bottles, not to be drank in his her or their house outhouse yard garden orchard or other place; any thing in the said recited Act contained to the contrary in anywise notwithstanding.

38 Geo. III. c. 54. 35 Geo. 3. c. 113. recited.

Penalty in recited Act not to extend to Beer or Ale sold in Casks containing not less than Five Gallons, or in Bottles not less than Two Dozen Quarts.

[No XI.] 39 Geo. III. c. 86.—An Act for ascertaining the Rate of Duty to be paid for Retail Spirit Licences; and for authorising the Justices of the Peace for any County to grant Licences to sell Ale Beer or other Liquors by Retail, in Cities and Places where a sufficient Number of Magistrates cannot be found qualified to grant such Licences.—[12th *July* 1799.]

P.

III. AND whereas by an Act passed in the sixth year of the reign of King *George* the First, intituled *An Act for preventing Frauds and Abuses in the Publick Revenues of Excise, Customs, Stamp Duties, Post Office, and House Money*, it is enacted, That all and every person or persons whatsoever, who shall have in his or her custody any brandy arrack rum spirits or strong waters exceeding the quantity of sixty-three gallons, shall be deemed and taken to be a seller of and dealer in brandy arrack rum spirits and strong waters, and subject to the survey of the Excise: And whereas by an Act passed in the twenty-sixth year of the reign of King *George* the Second, intituled *An Act for the more effectually preventing the fraudulent Removal of Tobacco by Land or Water, and for the Ease of the fair Trader in Tobacco; and for ascertaining the Rates payable for the Postage of certain Letters; and for amending and explaining the Laws relating to the Sale of Spirituous Liquors by Retail*, it is enacted, That no justice of the peace, being a common brewer of ale or beer innkeeper or distiller or other seller of or dealer in ale or any kind of spirituous liquors, or interested in any of the said trades or businesses, or being a victualler or malster, shall during such time as he shall be such common brewer innkeeper distiller victualler or malster, or seller of or dealer in ale or other spirituous liquors, or interested in

39 Geo. III. c. 86. 6 Geo. 1. 21. 26 G. 2. c. 13.

No. XI.
39 Geo. III. c. 86.

'any of the said trades or businesses, be capable of or have any power to 'grant any licence or licences to any person or persons for selling ale 'beer or any other liquors by retail: And whereas in divers corporate 'cities towns and places wherein foreign spirituous liquors are imported 'into this kingdom certain persons exercising corporate offices and no 'others can grant licences for selling ale or beer or any other liquors by 'retail therein, and it may happen that so many of the justices and 'magistrates thereof may be disqualified from granting such licences by 'force of the said recited Acts, or that a sufficient number of persons 'exercising such corporate offices for the time being may not be qualified 'to act therein according to the said Act, which may be productive of 'great inconvenience, and may be injurious to the publick revenue;' For remedy whereof be it further enacted, That from and after the passing of this Act, in case it shall happen that in any city town or place any of the corporate justices or magistrates thereof for the time being shall not be capable of acting in granting such licence as aforesaid, by reason that any such justice or magistrate or justices or magistrates therein, is or are a seller or sellers of or a dealer or dealers in any foreign spirits, then and in every such case it shall be lawful for any justice or justices of the peace acting in and for the county at large, within which such city town or place shall be situate or next adjoining thereto, at the request in writing of the chief magistrate of any such city town or place, to act as a justice or justices magistrate or magistrates within such city town or place, for the purpose of granting licences to sell ale beer or other liquors by retail in such corporate city town or place, instead of the justice or justices or magistrate or magistrates thereof disqualified as aforesaid; any act or acts, or any law custom or usage to the contrary notwithstanding; and all such justices so required to act as aforesaid shall be entitled to exercise the powers and jurisdictions of a magistrate within such city town or place for the purpose of granting such licences as aforesaid, and in all things relating thereto, and shall be deemed and taken to be a magistrate of such city town or place for the purposes aforesaid; but that such justice or justices shall not have any authority power or jurisdiction in such city town or place by virtue of this Act, other than and for the purposes herein-before mentioned.

In any Place where the Corporate Justices are by the two last recited Acts disqualified to grant Licences for retailing Liquors, the Justices for the County at large may grant them at the Request of the Chief Magistrate.

[No. XII.] 48 Geo. III. c. 143.—An Act to repeal the Stamp Duties on Licences granted by Justices of the Peace for selling Ale, Beer and other Exciseable Liquors by Retail; and for granting other Duties in lieu thereof.—[2*d July* 1808.]

48 Geo. III. c. 143.
Stamp Act. 44 *Geo.* 3. c. 98. *Schedule* (A).

'WHEREAS by an Act passed in the forty-fourth year of the reign of 'his present Majesty, intituled *An Act to repeal the several Duties 'under the Commissioners for managing the Duties upon Stamped Vellum, 'Parchment and Paper in* Great Britain, *and to grant new and additional 'Duties in lieu thereof*, certain stamp duties were imposed on licences 'granted by any justice or justices of the peace or other magistrate or 'magistrates for selling ale beer or other exciseable liquors by retail: 'And whereas it is expedient that the said duties should be repealed, 'and other duties granted in lieu thereof, to be placed under the ma- 'nagement of the commissioners of Excise;' Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the tenth day of *October* one thousand eight hundred and eight all and singular the said duties shall cease and determine; save and except in all cases relating to the receiving or paying any arrears thereof respectively which may at any time remain unpaid, or to any fine penalty or forfeiture fines penalties or forfeitures relating thereto respectively, which shall have been incurred at any time before or on the said tenth day of *October* one thousand eight hundred and eight.

Duties on Licences to sell Ale, &c. under recited Act repealed.

No. XII.
48 Geo. III. c. 143.

II. And be it further enacted, That from and after the said tenth day of *October* one thousand eight hundred and eight, all and every person or persons who shall sell beer or ale by retail, or who shall sell cyder or perry to be drank or consumed in his her or their house or premises, shall, before he she or they shall sell any beer or ale by retail, or any cyder or perry to be drank or consumed in his her or their house or premises, take out an excise licence authorising such person or persons to sell beer or ale by retail, and also cyder and perry to be drank or consumed in his her or their house or premises; which licence shall be granted in manner herein-after mentioned; (that is to say) if any such licence shall be taken out within the limits of the chief office of Excise in *London*, the same shall be granted under the hands and seals of two or more of the commissioners of Excise in *England* for the time being, or of such persons as they the said commissioners of Excise or the major part of them for the time being shall from time to time appoint or employ for that purpose; and if any such licence shall be taken out in any part of *England* not within the said limits, the same shall be granted under the respective hands and seals of the several collectors and supervisors of Excise within their respective collections and districts, and in case any such licence shall be taken out within the limits of the city of *Edinburgh*, the same shall be granted under the hands and seals of two or more of the commissioners of Excise in *Scotland* for the time being; or if any such licence shall be taken out in that part of *Great Britain* called *Scotland*, out of the said limits of the city of *Edinburgh*, then the same shall be granted under the respective hands and seals of the several collectors and supervisors of Excise in *Scotland*, within their respective collections and districts; and the said commissioners of Excise in *England* and *Scotland* respectively, or any two or more of them respectively, and the persons to be appointed or employed by the said commissioners of Excise in *England* or *Scotland* respectively or the major part of them, and also all such collectors and supervisors are hereby respectively authorised and required to grant such licences to the persons who shall apply for the same, on the person or persons so applying first paying for such licence a duty of two pounds two shillings to be applied and accounted for as herein-after directed.

After 10th October, 1808, in Great Britain, such Licences shall be granted by Commissioners of Excise at the Head Offices, and by Collectors in the Country.

Licence Duty, 2*l.* 2*s.*

III. And be it further enacted, That the duty by this Act directed to be paid for such licences shall be paid at such places or to such persons as are herein-after in that behalf respectively mentioned; (that is to say) for licences which shall be taken out within the limits of the chief office of Excise in *London*, the same shall be paid at the chief office of Excise in *London*, and for licences which shall be taken out within the limits of the city of *Edinburgh*, the same shall be paid at the chief office of Excise in *Edinburgh*, and for licences which shall be taken out in any part of *Great Britain* not within the said respective limits, the same shall be paid to the respective collectors of Excise granting such respective licence, and all licences which shall be granted under and by virtue or this Act to any person or persons to sell beer and ale by retail, and cyder and perry to be drank or consumed in his her or their house or premises, shall remain and continue in force until and upon the tenth day of *October* next ensuing the time of granting thereof and no longer

Duty on such Licences shall be paid to the Head Office, or to the Collectors.

Duration of Licence 10th October yearly.

IV. Provided always and be it further enacted, That in all cases where the licence or authority granted by any justices of the peace or magistrates or other competent persons, to any person or persons to keep a common inn alehouse or victualling-house, shall under or in pursuance of any charter custom or usage be issued at any time of the year except in the month of *September*, and terminate or expire at any time of the year except in the month of *September*, then and in every such case the excise licence required by this Act to be taken out for the sale of beer ale cyder or perry, shall be taken out within ten days next after the date of the said licence or authority of the justices of the peace magistrates or other competent persons, and such excise licence shall continue in force for twelve calendar months next ensuing the date of the commencement thereof, any thing in this Act to the contrary in anywise notwithstanding

Time of taking out Licences in certain Cases of Charters, &c.

V. And be it further enacted, That no person or persons shall sell any

Licences shall be renewed within 10 Days after Expiration.

No. XII.
48 Geo. III. c. 143.

beer or ale by retail, or any cyder or perry to be drank or consumed in his her or their house or premises after the expiration of such his her or their excise licence, unless such person or persons shall take out a fresh licence for the said purposes in the manner herein-before directed within ten days after the expiration of such former licence, and so in like manner renew every such licence from year to year; or if any person or persons shall sell any beer or ale by retail or any cyder or perry to be drank or consumed in his her or their house or premises, without first taking out an excise licence authorising him her or them so to do, or without renewing the same as is herein in that behalf directed, he she or they shall for every such offence forfeit the sum of fifty pounds.

Penalty 50*l.*

Executors and Assignees may have the benefit of Licences.

VI. And be it further enacted, That upon the death of any person so licensed or upon the removal of any person or persons so licensed from the entered house or premises in which such his her or their excise licence shall authorise him her or them to sell beer or ale by retail, or cyder or perry to be drank or consumed in his her or their house or premises, it shall be lawful for the commissioners of Excise in *England* and *Scotland* respectively for the time being, or any one or more of them, and to and for the several collectors and supervisors of Excise in *England* and *Scotland* respectively within their respective collections and districts, upon the production of a certificate of a justice of the peace or magistrate or other competent person, given after the death or removal of the former occupier of the house or premises, approving of the person or persons to whom such certificate shall be given, to authorise and empower such person or persons in like manner to sell beer and ale by retail or cyder and perry to be drank and consumed in his her or their house or premises, in the same house or premises where such person so licensed by virtue of such excise licence carried on such trade during the residue of the term for which such licence was originally granted, without taking out a new excise licence during the residue of the said term; Provided always, That persons trading in partnership and in one house or premises only shall not be obliged to take out more than one excise licence to sell beer and ale by retail or cyder and perry to be drank or consumed in his her their house or premises, in any one year; and that no one licence which shall be granted by virtue of this Act shall authorise or empower any person or persons to sell beer or ale by retail or cyder or perry to be drank and consumed in his her or their house or premises, in any other house or premises than the house or premises in which he she or they shall sell or have sold beer or ale or cyder or perry at the time of granting such licence.

Licences shall not be granted except to Persons allowed by Magistrates.

VII. Provided always, and be it further enacted, That neither his Majesty's commissioners of Excise in *England* or *Scotland* respectively, nor any persons who shall be appointed or employed by the said commissioners in *England* to grant licences to persons for selling beer or ale by retail or cyder or perry to be drank or consumed in the house or premises of the person or persons applying for such licence, nor any of the collectors or supervisors of Excise, shall grant or deliver any licence to sell beer or ale by retail or cyder or perry to be drank or consumed in the house or premises of the person or persons applying for such licence or any licence to sell spirituous liquors or strong waters or wine or liquors by retail to any person or persons who shall not produce a licence or authority granted to him her or them in due form of law by justices of the peace or magistrates or other competent persons, to such person or persons to keep a common inn alehouse or victualling-house, and every such licence or authority shall be in the form following; *videlicet*,

Form of Magistrate's Allowance;

County of } ‘AT a general meeting for the holden
‘ at within the said on
‘ the day of for
‘ the purpose of authorising and empowering persons to keep common
‘ inns alehouses or victualling-houses, We
‘ being his Majesty's Justices of the Peace for the ,
‘ or Magistrates of [*as the case may be*] do hereby authorise and empower
‘ *A. B.* at the sign of in the of

' in the aforesaid, to keep a
'common inn alehouse or victualling-house, and to utter and sell in the
'house in which he now dwelleth and in the premises thereunto belong-
'ing and not elsewhere, victuals and all such exciseable liquors as he
'shall be licensed and empowered to sell under the authority and per-
'mission of any excise licence which shall be duly granted by the com-
'missioners of Excise or persons to be appointed or employed by them
'for that purpose, or by any collector and supervisor of Excise respec-
'tively, provided that the true assize in bread in beer ale cyder and all
'other liquors be duly kept, and that no unlawful game or games or any
'drunkenness or other disorder be suffered in his house yard garden or
'premises, but that good order and rule be maintained and kept therein
'according to the laws of this realm in that behalf made: the authority
'and power hereby granted to continue in force for one whole year from
'the day of
' and no longer. Signed.'

Saving for Regulations as to Licences, by Magistrates in Corporations, &c.

VIII. Provided always, and be it further enacted, That nothing in this Act shall extend or be construed to extend to repeal or alter or in any manner to affect any law or laws or any provision in any charter or charters or any privilege of any city or town corporate or of any university now in force or lawfully used or exercised in relation to the granting of licences by any justices magistrates or other persons authorised by law to grant licences for persons keeping common inns alehouses or victualling houses; or in relation to the taking of any recognisances upon granting of any such licences or requiring or doing any other act matter or thing relating to any such licences: Save and except as to the payment of duties and form of licence as aforesaid, or to repeal or alter any Act or Acts of Parliament as to the sale of table beer at a price not exceeding three halfpence *per* quart.

"Licences granted before *October* 10, 1808, shall continue in full force for the term for which granted. § 9."

Clerks to Justices may take Fees as heretofore.

X. And be it further enacted, That nothing in this Act contained shall extend to diminish or alter any fees heretofore lawfully taken and received by any clerks of any justices or magistrates; but it shall be lawful to continue to demand and take such and the like fees and no other or different fees for licences to keep any common inn alehouse or victualling-house as have heretofore been taken by such clerks in that behalf.

Persons disabled from keeping Alehouses by Conviction, shall thereby forfeit Licence under this Act.

XI. And be it further enacted, That every person having any licence to keep a common inn alehouse or victualling-house, who shall be disabled by any conviction from keeping a common inn alehouse or victualling-house shall also by such conviction be disabled from selling any beer or ale by retail or cyder or perry to be drank or consumed in his her or their house or premises, under any excise licence obtained for such purposes; and every such excise licence shall from the time of such conviction be null and void to all intents and purposes; and in all cases of prosecution of any such persons whose excise licences shall have become null and void by such conviction, a certificate from the clerk of the peace or person acting as such of any such conviction shall be legal evidence; which certificate such clerk of the peace or other person is hereby authorised and required to grant on demand without fee or reward.

Recovery and Application of of Penalties.

XII. And be it further enacted, That all fines penalties and forfeitures imposed by this Act shall be sued for recovered levied or mitigated by such ways means or methods as any fine penalty or forfeiture may be sued for recovered levied or mitigated by any law or laws of Excise, or by action of debt bill plaint or information in any of his Majesty's courts of record at *Westminster*, or in the Court of Exchequer in *Scotland* respectively; and that one moiety of every such fine penalty or forfeiture shall be to his Majesty his heirs and successors, and the other moiety to him or them who shall inform discover or sue for the same.

"Powers of former Excise Acts extended to this Act. § 13. Duties shall be carried to Consolidated Fund of *Great Britain*. § 14."

PART VI.

CLASS II.

Apprentices.

[No. I.] 5 Eliz. c. 4. (1)—An Act containing divers Orders for Artificers, Labourers, Servants of Husbandry, and Apprentices.

5 Eliz. c. 4.

A Repeal of so much of former Statutes as concerns the Hiring, Keeping, Departing, Working, or Order of Servants, Labourers, &c.

And a Declaration who shall be compellable to serve in Handicrafts and who in Husbandry, and their several Duties, &c.

'ALTHOUGH there remain and stand in force presently a great number of Acts and Statutes concerning the retaining departing wages and orders of apprentices servants and labourers, as well in husbandry as in divers other arts mysteries and occupations; yet partly for the imperfection and contrariety that is found and doth appear in sundry of the said laws, and for the variety and number of them, and chiefly for that the wages and allowances limited and rated in many of the said statutes are in divers places too small and not answerable to this time, respecting the advancement of prices of all things belonging to the said servants and labourers; the said laws cannot conveniently, without the great grief and burden of the poor labourer and hired man, be put in good and due execution: And as the said several Acts and Statutes were, at the time of the making of them, thought to be very good and beneficial for the commonwealth of this realm (as divers of them are): So if the substance of as many of the said laws as are meet to be continued shall be digested and reduced into one sole law and statute, and in the same and uniform order prescribed and limited concerning the wages and other orders for apprentices servants and labourers, there is good hope that it will come to pass that the same law (being duly executed) should banish idleness, advance husbandry, and yield unto the hired person both in the time of scarcity and in the time of plenty, a convenient proportion of wages.'

(1) This Statute, of which the greater part has long been obsolete in practice and inapplicable to the state of society, was probably deemed a masterpiece of wisdom and policy at the time of its being passed, when the general fashion was to submit all matters of private interest as much as possible to public regulation. The Provision which precluded persons from exercising such occupations as their own convenience might suggest, without having served an apprenticeship, was allowed to continue its operation in the depression of talent and industry, and the encouragement of illegal combination, in opposition to the judgment of every enlightened inquirer, the lessons of experience, the discouragement of Courts of Justice, and the frequent interposition of the legislature, in creating particular exceptions, until the Session of Parliament immediately preceding the present publication, when the commerce of the country was fortunately relieved from its pressure.—See Statute 54 Geo. III. c. 96.—A very able and judicious view of the real motives and purposes of the Act for the discouragement of commerce and manufactures, on account of their supposed opposition to the interests of agriculture, is taken in a Tract recently published, and included in the 5th volume of a periodical publication, called the Pamphleteer.

The Provisions of this Act, and of the subsequent Statute of 1 James I. for enabling and requiring justices of peace to regulate the rate of wages, (manifestly, however injudiciously, intended to operate in favour of masters,) after continuing dormant for a long space of time, were lately endeavoured to be brought into operation by combinations of workmen: an attempt which occasioned their repeal, by Stat. 53 Geo. III. c. 40. See Post Title *Servants.*

I have thought it adviseable, notwithstanding the repeals above noticed, to retain the whole of the Statute.

The Statute relates only to such persons who bind themselves as apprentices as are under age, and not to adults. Smedley *v.* Gooden, 3 M. & S. 189.

Quære, Whether a master who exercises a trade not within the Statute can legally take an apprentice? Gye *v.* Felton, 4 Taunt. 676.

No. I.
5 Eliz. c. 4.

II Be it therefore enacted by the authority of this present Parliament, That as much of all the statutes heretofore made, and every branch of them as touch or concern the hiring keeping departing working wages or order of servants workmen artificers apprentices and labourers, or any of them, and the penalties and forfeitures concerning the same, shall be, from and after the last day of *September* next ensuing, repealed and utterly void and of none effect, and that all the said statutes and every branch thereof, or any matter contained in them and not repealed by this statute, shall remain and be in full force and effect, any thing in this statute to the contrary notwithstanding.

No Person shall retain a Servant in these Sciences under one whole Year.

III. And be it further enacted by the authority aforesaid, That no manner of person or persons after the aforesaid last day of *September* now next ensuing, shall retain hire or take into service or cause to be retained hired or taken into service, nor any person shall be retained hired or taken into service by any means or colour, to work for any less time or term than for one whole year in any of the sciences crafts mysteries or arts of clothiers woollen cloth weavers tuckers fullers clothworkers sheremen dyers hosiers taylors shoemakers tanners pewterers bakers brewers glovers cutlers smiths farriers curriers sadlers spurriers turners cappers hatmakers or feltmakers bowyers fletchers arrow-head-makers butchers cooks or millers

What Sort of Persons are compellable to serve in any of the Crafts aforesaid.

IV And be it further enacted, That every person being unmarried, and every other person being under the age of thirty years, that after the Feast of *Easter* next shall marry, and having been brought up in any of the said arts crafts or sciences; or that hath used or exercised any of them by the space of three years or more, and not having lands tenements rents or hereditaments, copyhold or freehold, of an estate of inheritance or for term of any life or lives, of the clear yearly value of forty shillings; nor being worth of his own goods the clear value of ten pound, and so allowed by two justices of the peace of the county where he hath most commonly inhabited by the space of one whole year, and under their hands and seals, or by the mayor or other head officer of the city borough or town corporate where such person hath most commonly dwelt by the space of one whole year, and two aldermen or two other discreet burgesses of the same city borough or town corporate, if there be no aldermen, under their hands and seals, nor being retained with any person in husbandry, or in any of the aforesaid arts and sciences according to this statute, nor lawfully retained in any other art or science, nor being lawfully retained in household or in any office with any nobleman gentleman or others, according to the laws of this realm; nor have a convenient farm or other holding in tillage, whereupon he may employ his labour; shall, during the time that he or they shall be so unmarried, or under the said age of thirty years, upon request made by any person using the art or mystery wherein the said person so required hath been exercised (as is aforesaid) be retained, and shall not refuse to serve according to the tenor of this statute upon the pain and penalty hereafter mentioned

No Person shall put away his Servant, nor shall any Servant depart from his Master before the end of his Time.

The Cause of putting away Servants, or their departing, to be determined by a Justice of Peace, Mayor, Bailiff, &c.

V. And be it further enacted, That no person which shall retain any servant shall put away his or her said servant, and that no person retained according to this statute shall depart from his master mistress or dame before the end of his or her term, upon the pain hereafter mentioned, unless it be for some reasonable and sufficient cause or matter to be allowed before two justices of peace, or one at the least, within the said county, or before the mayor or other chief officer of the city borough or town corporate wherein the said master mistress or dame inhabiteth, to whom any of the parties grieved shall complain; which said justices or justice mayor or chief officer shall have and take upon them or him the hearing and ordering of the matter betwixt the said master or mistress or dame and servant, according to the equity of the cause

No Servant shall depart, or be put away, but upon a Quarter's Warning.

VI. And that no such master mistress or dame shall put away any such servant at the end of his term, or that any such servant shall depart

No. I.

5 Eliz. c. 4.

from his said master mistress or dame at the end of his term, without one quarter's warning given before the end of his said term, either by the said master mistress or dame or servant, the one to the other, upon the pain hereafter ensuing.

What Sort of Persons are compellable to serve by the Year in Husbandry,

VII. And be it further enacted by the authority aforesaid, That every person between the age of twelve years and the age of sixty years, not being lawfully retained nor apprentice with any fisherman or mariner haunting the seas; nor being in service with any kidder or carrier of any corn grain or meal for provision of the city of *London*; nor with any husbandman in husbandry; nor in any city town corporate or market town, in any of the arts or sciences limited or appointed by this statute to have or take apprentices; nor being retained by the year or half the year at the least for the digging seeking finding getting melting fining working trying making of any silver tin lead iron copper stone sea-coal stone-coal moor-coal or chark-coal; nor being occupied in or about the making of any glass; nor being a gentleman born; nor being a student or scholar of any of the Universities, or in any school; nor having lands tenements rents or hereditaments, for term of life or of estate of inheritance of the clear yearly value of forty shillings; nor being worth in goods and chattels of the value of ten pound; nor having a father or mother then living or other ancestor whose heir apparent he is, then having lands tenements or hereditaments of the yearly value of ten pound or above, or goods or chattels to the value of forty pound; nor being a necessary or convenient officer or servant lawfully retained, as is aforesaid; nor having a convenient farm or holding, whereupon he may or shall employ his labour; nor being otherwise lawfully retained, according to the true meaning of this estatute; shall after the aforesaid last day of *September* now next ensuing, by virtue of this estatute, be compelled to be retained to serve in husbandry by the year with any person that keepeth husbandry, and will require any such person so to serve within the same shire where he shall be so required.

The Forfeiture for putting away his Servant within his Term, or at the end of his Term without Warning.

VIII. And be it further enacted by the authority of this present Parliament, That if any person after he hath retained any servant shall put away the same servant before the end of his term, unless it be for some reasonable and sufficient cause to be allowed as is aforesaid; or if any such master mistress or dame shall put away any such servant at the end of his term without one quarter's warning given before the said end as is above remembred; that then every such master mistress or dame so offending, unless he or they be able to prove by two such sufficient witnesses such reasonable and sufficient cause of putting away of their servant or servants during their term, or a quarter's warning given afore the end of the said term as is aforesaid, before the justices of *Oyer* and *Terminer*, justices of assize justices of the peace in the quarter sessions, or before the mayor or other head officer of any city borough or town corporate, and two aldermen or two other discreet burgesses of the same city borough or town corporate if there be no aldermen, or before the Lord President and Council established in the marches of *Wales*, or before the Lord President and Council for the time being established in the north parts, shall forfeit the sum of forty shillings.

The Punishment of a Servant which performeth not his Duty in Service or Departure.

IX. And if any servant retained according to the form of this estatute, depart from his master mistress or dame's service before the end of his term, unless it be for some reasonable and sufficient cause to be allowed as is aforesaid; or if any servant at the end of his term depart from his said master mistress or dame's service without one quarter's warning given before the end of his said term in form aforesaid, and before two lawful witnesses; or if any person or persons compellable and bounden to be retained and to serve in husbandry, or in any other the arts sciences or mysteries above remembred by the year or otherwise, do (upon request made) refuse to serve for the wages that shall be limited rated and appointed according to the form of this statute; or promise or covenant to serve and do not serve according to the tenor of the same: That then every person so departing away, and every person so refusing to serve for such wages, upon complaint thereof made by the master mistress or dame

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of the said servant, or by the party to or with whom the said refusal is made or promise not kept, to two justices of peace of the county, or to the mayor or other head officer of the city borough or town corporate, and two aldermen or two other discreet burgesses of the same city borough or town corporate if there be no aldermen, where the said master mistress or dame, or the said party to or with whom the said refusal is made and promise not kept dwelleth, or to either of the said lords presidents and council of *Wales* and the north, the said justices lords presidents and councils, and also the said mayors or other head officers, and other persons of cities boroughs or towns corporate or any of them as is aforesaid, shall have power by force of this statute to hear and examine the matter; and finding the said servant or the said party so refusing faulty in the premises upon such proofs and good matter as to their discretion shall be thought sufficient to commit him or them to ward, there to remain without bail or mainprise, until the said servant or party so offending shall be bound to the party to whom the offence shall be made, to serve and continue with him for the wages that then shall be limited and appointed according to the tenor and form of this estatute, and to be discharged upon his delivery without paying any fee to the gaoler where he or they shall be so imprisoned.

None may depart forth of the City, Town, Parish, &c., without a Testimonial.

X. And be it likewise enacted by the authority aforesaid, That none of the said retained persons in husbandry or in any the arts or sciences above remembred after the time of his retainer expired, shall depart forth of one city town or parish to another; nor out of the lath rape wapentake or hundred; nor out of the county or shire where he last served, to serve in any other city town corporate lath rape wapentake hundred shire or county; unless he have a testimonial under the seal of the said city or town corporate, or of the constable or constables or other head officer or officers, and of two other honest householders of the city town or parish where he last served, declaring his lawful departure, and the name of the shire and place where he dwelled last before his departure according to the form hereafter expressed in this Act: Which certificate or testimonial shall be written and delivered unto the said servant, and also registred by the parson vicar or curate of the parish where such master mistress or dame doth or shall dwell, taking for the doing thereof two pence and not above: And the form thereof shall be as followeth:

The Form of the Testimonial.

Memorandum, That *A. B.* late servant to *C. D.* of *E.* husbandman or taylor, *&c.* in the county, *&c.*, is licensed to depart from his said master, and is at his liberty to serve elsewhere according to the statute in that case made and provided. In witness whereof, *&c.* Dated the day month year and place *&c.*, of the making thereof.

No Servant shall be retained without shewing his Testimonials. Hetley 164.

XI. And be it further enacted by the authority aforesaid, That no person or persons that shall depart out of a service, shall be retained or accepted into any other service, without shewing before his retainer such testimonial as is above remembred to the chief officer of the town corporate, and in every other town and place to the constable curate churchwarden or other head officer of the same where he shall be retained to serve; upon the pain that every such servant so departing without such certificate or testimonial shall be imprisoned until he procure a testimonial or certificate; the which if he cannot do within the space of one and twenty days next after the first day of his imprisonment, then the said person to be whipped and used as a vagabond according to the laws in such cases provided; and that every person retaining any such servant without shewing such testimonial or certificate as is aforesaid, shall forfeit for every such offence five pounds: And if any such person shall be taken with any counterfeit or forged testimonial then to be whipped as a vagabond.

The Master shall pay v. li. that retaineth a Servant without a Testimonial.

Counterfeit Testimonials

How long Labourers shall continue at their Work.

XII. And be it further enacted by the authority aforesaid, That all artificers and labourers being hired for wages by the day or week shall betwixt the midst of the months of *March* and *September* be and continue at their work at or before five of the clock in the morning, and continue at work and not depart until betwixt seven and eight of the clock at night

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(except it be in the time of breakfast dinner or drinking, the which times at the most shall not exceed above two hours and a half in a day, that is to say, at every drinking one half hour, for his dinner one hour, and for his sleep when he is allowed to sleep, the which is from the midst of *May* to the midst of *August*, half an hour at the most, and at every breakfast one half hour:) And all the said artificers and labourers between the midst of *September* and the midst of *March* shall be and continue at their work from the spring of the day in the morning until the night of the same day, except it be in time before appointed for breakfast and dinner; upon pain to lose and forfeit one penny for every hour's absence, to be deducted and defaulked out of his wages that shall so offend.

No Artificer or Labourer shall depart before his Work be finished.

XIII. And be it also enacted by the authority aforesaid, That every artificer and labourer that shall be lawfully retained in and for the building or repairing of any church house ship mill or every other piece of work taken in great in task or in gross, or that shall hereafter take upon him to make or finish any such thing or work, shall continue and not depart from the same unless it be for not paying of his wages or hire agreed on, or otherwise lawfully taken or appointed to serve the Queen's Majesty her heirs and successors or for other lawful cause, or without licence of the master or owner of the work or of him that hath the charge thereof, before the finishing of the said work; upon pain of imprisonment by one month without bail or mainprize; and the forfeiture of the sum of five pounds to the party from whom he shall so depart; for the which the said party may have his action of debt against him that shall so depart in any of the Queen's Majesty's Court of Record, over and besides such ordinary costs and damages as may or ought to be recovered by the common laws for or concerning any such offence: in which action no protection wager or law or essoin shall be admitted.

XIV. And that no other artificer or labourer retained in any service to work with the Queen's Majesty or any other person depart from her said Majesty or from the said other person until such time as the work be finished, if the person so retaining the artificer or labourer so long will have him and pay him his wages or other duties; upon pain of imprisonment of every person so departing, by the space of one month.

The Wages of Servants, Labourers, Artificers, shall be assessed by the Justices of Peace, Sheriff, &c.
2 Roll. 269.
Bridgm. 119.

XV. And for the declaration and limitation what wages servants labourers and artificers either by the year or day or otherwise shall have and receive, Be it enacted by the authority of this present Parliament, That the justices of peace of every shire riding and liberty within the limits of their several commissions or the more part of them being then resiant with the same, and the sheriff of that county if he conveniently may, and every mayor bailiff or other head officer within any city or town corporate wherein is any justice of peace within the limits of the said city or town corporate and of the said corporation, shall before the tenth day of *June* next coming, and afterwards shall yearly at every general sessions first to be holden and kept after *Easter* or at some time convenient within six weeks next following every of the said Feasts of *Easter* assemble themselves together; and they (so assembled) calling unto them such discreet and grave persons of the said county or of the said city or town corporate as they shall think meet, and conferring together respecting the plenty or scarcity of the time and other circumstances necessarily to be considered shall have authority by virtue thereof within the limits and precincts of their several commissions to limit rate and appoint the wages as well of so many of the said artificers handycraftsmen husbandmen or any other labourer servant or workman whose wages in time past hath been by any law or statute rated and appointed, as also the wages of all other labourers artificers workmen or apprentices of husbandry which have not been rated, as they the same justices mayors or head officers within their several commissions or liberties shall think meet by their discretions to be rated limited or appointed by the year or by the day week month or otherwise with meat and drink or without meat and drink, and what wages every workman or labourer shall take by the great for mowing reaping or threshing of corn and grain or for

Explained by 1 Jac. 1. c. 6. § 3.
Jones Sir Tho. 47.

Repealed by 53 G. 3. c. 40.

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mowing or making of hay, or for ditching paving railing or hedging by the rod pearch lugg yard pole rope or foot, and for any other kind of reasonable labours or service; and shall yearly before the twelfth day of *July* next after the said assessments and rates so appointed and made certify the same ingrossed in parchment, with the considerations and causes thereof, under their hands and seals into the Queen's most honourable Court of Chancery; whereupon it shall be lawful to the Lord Chancellor of *England* or Lord Keeper of the great seal for the time being, upon declaration thereof to the Queen's Majesty her heirs or successors or to the Lords and others of the Privy Council for the time being attendant upon their persons, to cause to be printed and sent down before the first day of *September* next after the said certificate into every county to the sheriff and justices of peace there and to the said mayor bailiff and head officers ten or twelve proclamations or more containing in every of them the several rates appointed by the said justices and other head officers as is aforesaid, with commandment by the said proclamations to all persons in the name of the Queen's Majesty her heirs or successors straightly to observe the same, and to all justices sheriffs and other officers to see the same duly and severally observed upon the danger of the punishment and forfeiture limited and appointed by this estatute: upon receipt whereof the said sheriffs justices of peace and the mayor and head officer in every city or town corporate shall cause the same proclamations to be entered of record by the clerk of the peace or by the clerk of the city or town corporate. And the said sheriffs justices and other the said mayor and head officers shall forthwith in open markets upon the market-days before *Michaelmas* then ensuing cause the same proclamation to be proclaimed in every city or market-town within the limits of their commission, and the same proclamation to be fixed in some convenient place of the said city and town or in such of the most occupied market towns as to the said sheriffs justices of peace and to the said mayor and head officers shall be thought meet. (2)

Proclamations shall be made of the Rates of the Wages of Servants, &c.

XVI. And if the sheriffs justices of the peace or the mayor or head officer shall at their said general sessions or at any time after within six weeks then following, upon their assembly and conference together, think it convenient to retain and keep for the year then to come the rates and proportions of wages that they certified the year before, or to change or to reform them or some part of them; then they shall before the said twelfth day of *July* yearly certify unto the said court of Chancery their resolutions and determinations therein to the intent that the proclamations may accordingly be renewed and sent down. And if it shall happen that there be no need of any reformation or alteration of the rates of the said wages, but that the former shall be thought meet to be continued; then the proclamations for the year past shall remain in force until new proclamations upon new rates concerning the said wages shall be sent down according to the form of this estatute.

Continuance or Alteration of the Rates of Wages at the Justices Discretion.

XVII. And be it further enacted by authority of this present Parliament, That if all the said justices of peace resiant within the counties where they are or shall be justices of peace mayors and head officers, do not before the tenth day of *June* next coming and afterward yearly appear and assemble at the said general sessions or within six weeks next after the said general sessions and limit and rate the wages of the said servants and labourers, or shall not consider whether the former rates made be meet to be continued or to be altered and reformed in manner and form aforesaid or be negligent or remiss in the certificate thereof in form above written, that then every justice of peace of the county and

The Fine of the Justices, Mayor, Bailiffs, &c. which be absent at the Taxing of Servants Wages.

(2) Where the Weavers presented a petition to the Justices at Sessions, praying them to limit a rate of wages, according to the provisions of Stat. 5 Eliz. c. 4, § 15, and 1 Ja. 1. c. 6, § 3, and the Justices heard the Petition and Counsel in support of it, and after making inquiry and examining witnesses upon the subject, determined that they could not make any rate more beneficial to the Weavers; the Court refused a mandamus to the Justices to hear and determine, although they did not examine the witnesses tendered by the Petitioners, nor any witnesses, upon oath, or in open Court. Rex *v.* Cumberland (Justices) 1 M & S. 190.

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every mayor or head officers of the city or town corporate in whom any such default or negligence shall be found being within the said county city or town corporate at the time of the said next assembly or at the time of the said sessions or at the times of the said rates of wages to be set within six weeks next after every such sessions and not visited with any such sickness as he could not travel thither without peril and danger of his life, or not having any other lawful and good excuse to be allowed by the justices then assembled for the rating and taxing of wages as is aforesaid, or by the more part of them, upon a corporal oath and affidavit to be taken and made openly before the said justices upon the Holy Evangelists by some credible person assessed and taxed in the book of subsidy of that county to the clear value of five pounds at the least or by such other person as the most part of such justices shall allow and accept to take such oath, shall for such default or negligence forfeit unto the Queen's Majesty her heirs and successors ten pounds of lawful money of *England.*

The Punishment of him that giveth more Wages than is taxed by the Justices, &c.

XVIII. And be it further enacted by the authority aforesaid, That if any person after the said proclamation shall be so sent down and published shall by any secret ways or means directly and indirectly retain or keep any servant workman or labourer, or shall give any more or greater wages or other commodity contrary to the true intent and purport of the estatute, or contrary to the rates or wages that shall be assessed or appointed in the said proclamations; that then every person that shall so offend and be thereof lawfully convicted before any of the justices or other head officers above remembered or either of the said presidents and councils, shall suffer imprisonment by the space of ten days without bail or mainprise, and shall lose and forfeit five pounds of lawful money of *England.*

The Punishment of the Servant, Labourer, &c. that taketh more Wages than is taxed.

XIX. And that every person that shall be so retained and take wages contrary to this estatute or any branch thereof or of the said proclamation, and shall be thereof convicted before the justices aforesaid or any two of them, or before the mayor or other head officers aforesaid, shall suffer imprisonment by the space of one and twenty days without bail or mainprise.

Every retaining contrary to this Statute shall be void.

XX. And that every retainer promise gift or payment of wages or other thing whatsoever contrary to the true meaning of this estatute, and every writing and bond to be made for that purpose shall be utterly void and of none effect.

The Punishment of the Servant that maketh Assault upon his Master, Mistress, Dame, or Overseer.

XXI. And be it enacted by the authority aforesaid, That if any servant workman or labourer shall wilfully or maliciously make any assault or affray upon his master mistress or dame, or upon any other that shall at the time of such assault or affray have the charge or oversight of any such servant workman or labourer or of the work wherein the said servant workman or labourer is appointed or hired to work, and being thereof convicted before any two of the justices mayor or other head officer aforesaid where the said offence is committed, or before either of the said lords presidents and council before remembered by confession of the said servant workman or labourer, or by the testimony witness and oath of two honest men; that then every such offender shall suffer imprisonment by the space of one whole year or less by the discretion of two justices of peace if it be without a town corporate; and if it be within a town corporate then by the discretion of the mayor or head officer of the same town corporate with two others of the discreetest persons of the same corporation at the least: And if the offence shall require further punishment then to receive such other open punishment, so as it extend not to life nor limb, as the justices of peace in open sessions or as the more part of them or the said mayor or head officer and six, or four at the least, of the discreetest persons of the same corporation, before whom the offence shall be examined, shall think convenient for the quality of the said offence so done or committed.

Artificers compellable to work in Haytime and Harvest.

XXII. Provided always, and be it enacted by the authority aforesaid, That in the time of hay or corn harvest the justices of peace and every of them, and also the constable or other head officer of every township upon

request, and for the avoiding of the loss of any corn grain or hay, shall and may cause all such artificers and persons as be meet to labour, by the discretions of the said justices or constables or other head officers or by any of them, to serve by the day for the mowing reaping shearing getting or inning of corn grain and hay according to the skill and quality of the person; and that none of the said persons shall refuse so to do upon pain to suffer imprisonment in the stocks by the space of two days and one night: And the constable of the town or other head officer of the same where the said refusal shall be made, upon complaint to him made, shall have authority by virtue hereof to set the said offender in the stocks for the time aforesaid, and shall punish him accordingly upon pain to lose and forfeit for not doing thereof the sum of forty shillings.

A Proviso for some that go into other Shires for Work in Haytime and Harvest.

XXIII. Provided also, That all persons of the counties where they have accustomed to go into other shires for harvest-work and having at that time no harvest-work sufficient in the same town or county where he or they dwelt in the winter then last past, bringing with him or them a testimonial under the hand and seal of one justice of the peace of the shire, or other head officer of the town or place that he or they come from, testifying the same, for the which he shall pay not above one penny (other than such persons as shall be retained in service according to the form of this estatute) may repair and resort in harvest of hay or corn from the counties wherein their dwelling-places are into any other place or county for the only mowing reaping and getting of hay corn or grain and for the only working of harvest-works, as they might have done before the making of this estatute; any thing herein contained to the contrary notwithstanding.

Women compellable to serve that be above Twelve and under Forty Years old, unmarried, and forth of Service.

XXIV. And be it further enacted by the authority aforesaid, That two justices of peace the mayor or other head officer of any city borough or town corporate and two aldermen or two other discreet burgesses of the same city borough or town corporate, if there be no aldermen, shall and may by virtue hereof appoint any such woman as is of the age of twelve years and under the age of forty years and unmarried and forth of service, as they shall think meet to serve, to be retained or serve by the year or by the week or day for such wages and in such reasonable sort and manner as they shall think meet; and if any such woman shall refuse so to serve, then it shall be lawful for the said justices of peace mayor or head officers to commit such woman to ward until she shall be bounden to serve as is aforesaid.

Husbandmen may take Apprentices.

XXV. And for the better advancement of husbandry and tillage and to the intent that such as are fit to be made apprentices to husbandry may be bounden thereunto, be it enacted by the authority of this present Parliament, That every person being an householder and having and using half a plough-land at the least in tillage, may have and receive as an apprentice any person above the age of ten years and under the age of eighteen years to serve in husbandry until the age of one and twenty years at the least, or until the age of twenty-four years as the parties can agree, and the said retainer and taking of an apprentice to be made and done by indenture. (3)

Every Householder dwelling in any Town Corporate may take an Apprentice for Seven Years.

XXVI. And be it further enacted, That every person being an householder, and twenty-four years old at the least, dwelling or inhabiting, or which shall dwell and inhabit in any city or town corporate, and using and exercising any art mystery or manual occupation there, shall and may after the Feast of St. *John Baptist* next coming, during the time that he shall so dwell or inhabit in any such city or town corporate, and use and exercise any such mystery art or manual occupation, have and retain the son of any freeman not occupying husbandry, nor being a labourer

(3) No Contract of Apprenticeship takes place under this Act except by deed indented; and, therefore, no action is maintainable for seducing an apprentice engaged by Deed Poll. Smith *v.* Birch. 1 Sess. cas. 222. But by Statute 31 G. II. c. 11. no Person bound an Apprentice shall be liable to be removed by reason of the Writing not being indented.—This Statute makes no alteration in the Law except with respect to Settlements.

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and inhabiting in the same, or in any other city or town that now is or hereafter shall be and continue incorporate, to serve and be bound as an apprentice after the custom and order of the city of *London* for seven years at the least, so as the term and years of such apprentice do not expire or determine afore such apprentice shall be of the age of twenty-four years at the least.

Merchants, &c. may take no Apprentices but such whose Parents may dispend xl. s. of Freehold.

XXVII. Provided always, and be it enacted, That it shall not be lawful to any person dwelling in any city or town corporate, using or exercising any of the mysteries or crafts of a merchant, trafficking by traffic or trade into any the parts beyond the sea, mercer draper goldsmith ironmonger embroiderer or clothier, that doth or shall put cloth to making and sale, to take any apprentice or servant to be instructed or taught in any of the arts occupations crafts or mysteries which they or any of them do use or exercise, except such servant or apprentice shall be his son, or else that the father and mother of such apprentice or servant shall have, at the time of taking such apprentice or servant lands tenements or other hereditaments of the clear yearly value of forty shillings of one estate of inheritance or freehold at the least, to be certified under the hands and seals of three justices of the peace of the shire or shires where the said lands tenements or other hereditaments do or shall lie, to the mayor bailiff or other head officers of such city or town corporate, and to be inrolled among the records there.

Whom they may have for their Apprentices who dwell in Market-Towns not Corporate. 8 Cok. 129.

XXVIII. And be it further enacted, That from and after the said Feast of St. *John* the *Baptist* next, it shall be lawful to every person being an housholder, and four and twenty years old at the least, and not occupying husbandry nor being a labourer dwelling or inhabiting, or that shall hereafter dwell or inhabit in any town not being incorporate, that now is or hereafter shall be a market-town, so long as the same shall be weekly used and kept as a market-town, and using or exercising any art mystery or manual occupation during the time of his abode there, and so using and exercising such art mystery or manual occupation as aforesaid, to have in like manner to apprentice or apprentices, the child or children of any other artificer or artificers not occupying husbandry nor being a labourer, which now do or hereafter shall inhabit or dwell in the same, or in any other such market-town within the same shire to serve as apprentice or apprentices as is aforesaid, to any such art mystery or manual occupation, as hath been usually exercised in any such market-town where such apprentice shall be bound in manner and form above-said.

What Apprentices Merchants, &c. dwelling in a Market-Town not Corporate may take. Cro. El. 723.

XXIX. Provided always, and be it enacted, That it shall not be lawful to any person dwelling or inhabiting in any such market-town, using or exercising the feat mystery or art of a merchant, trafficking or trading into the parts beyond the seas, mercer draper goldsmith ironmonger embroiderer or clothier that doth or shall put cloth to making and sale, to take any apprentice, or in any wise to teach or instruct any person in the arts sciences or mysteries last before recited, after the Feast of St. *John Baptist* aforesaid, except such servant or apprentice shall be his son, or else that the father or mother of such apprentice shall have lands tenements or other hereditaments at the time of taking such apprentice of the clear yearly value of three pounds of one estate of inheritance or freehold at the least, to be certified under the hands and seals of three justices of the peace, of the shire or shires where the said lands tenements or other hereditaments do or shall lie, to the head officers or head officer of such market-town where such apprentice or servant shall be taken, there to be inrolled by such head officers always to remain of record.

These Artificers may take Apprentices whose Parents may dispend no Land. 1 Lev. 249. 2 Salk. 611. Carthew 162. 3 Mod. 152.

XXX. And be it further enacted, That from and after the said Feast it shall be lawful to any person using or exercising the art or occupation of a smith wheel-wright plough-wright carpenter rough-mason plaisterer sawyer lime-burner brick-maker bricklayer tyler slater helier tyle-maker linnen-weaver turner cowper millers earthern-potters woollen-weaver weaving huswives or household cloth only and none other cloth-fuller otherwise called tucker or walker burner of oare and wood-ashes thatcher or shingler, wheresoever he or they shall dwell or inhabit, to have or

receive the son of any person as apprentice in manner and form aforesaid, to be taught and instructed in these occupations only and none other, albeit the father and mother of any such apprentice have not any lands tenements or hereditaments.

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XXXI. And be it further enacted by the authority aforesaid, That after the first day of *May* next coming it shall not be lawful to any person or persons, other than such as now do lawfully use or exercise any art mystery or manual occupation, to set up occupy use or exercise any craft mystery or occupation now used or occupied within the realm of *England* or *Wales*, except he shall have been brought up therein seven years at the least as an apprentice in manner and form abovesaid; nor to set any person on work in such mystery art or occupation being not a workman at this day, except he shall have been apprentice as is aforesaid; or else having served as an apprentice as is aforesaid shall or will become a journeyman or be hired by the year; upon pain that every person willingly offending or doing the contrary shall forfeit and lose for every default forty shillings for every month. (4)

None may use any Manual Occupation, except he hath been Apprentice to the same, &c.

Repealed 54 G. 3. c. 96.

XXXII. Provided always, and be it further enacted by the authority aforesaid, That no person or persons using or exercising the art or mystery of a woollen cloth-weaver, other than such as be inhabiting within the counties of *Cumberland Westmoreland Lancaster* and *Wales*, weaving frizes cottons or huswives cloth only, making and weaving woollen cloth commonly sold or to be sold by any clothman or clother, shall take and have any apprentice, or shall teach or in any wise instruct any person or persons in the science art or occupation of weaving aforesaid in any village town or place (cities towns corporate and market towns only except) unless such person be his son, or else that the father or mother of such apprentice or servant shall at the time of the taking of such person or persons to be an apprentice or servant or to be so instructed have lands or tenements or other hereditaments to the clear yearly value of three pounds at the least of an estate of inheritance or freehold, to be certified under the hands and seals of three justices of the peace of the shire or shires where the said lands tenements or other hereditaments do or shall lie; the effect of the indenture to be registred within three months in the parish where such master shall dwell, and to pay for such registring four pence; upon pain of forfeiture of twenty shillings for every month that any person shall otherwise take any apprentice, or set any such person on work contrary to the meaning of this article.

What sort of Persons Woollen Weavers may take Apprentices.

Repealed by 5 & 6 W. & M. c. 9.

XXXIII. And be it further enacted by the authority aforesaid, That all and every person and persons that shall have three apprentices in any of the said crafts mysteries or occupations of a cloth-maker fuller shearman weaver taylor or shoemaker shall retain and keep one journeyman, and for every other apprentice above the number of the said three apprentices one other journeyman, upon pain for every default therein ten pounds.

He that hath Three Apprentices must keep One Journeyman.

XXXIV. Provided always, That this Act nor any thing therein contained shall not extend to prejudice or hinder any liberties heretofore granted by an Act of Parliament, to or for the company and occupation of worsted-makers and worsted-weavers within the city of *Norwich* and elsewhere within the county of *Norfolk*, which liberties be in force until the beginning of this present Parliament; any thing herein contained to the contrary in any wise nowithstanding.

A Proviso for the Liberties of Worsted-makers in Norwich and Norfolk. 14 & 15 H. 8. c. 3.

XXXV. And be it further enacted, That if any person shall be required by any householder having and using half a plough-land at the least in tillage to be an apprentice and to serve in husbandry or in any other kind of art mystery or science before expressed and shall refuse so to do, That

The Punishment of him that refuseth to be an Apprentice.

(4) Quære, Whether a person not having served as Apprentice to the trade of a Miller, who embarked his capital in a mill, which he superintends, and derives the profits of it, through the agency of a Foreman suitably qualified, to whom he gave directions as to the order in which the Corn of the several Customers should be ground, but no otherwise interfered in the management, and never engaged in the manual exercise of the trade, be liable to the Penalty given by the stat. 5 Eliz. c. 4. § 31. Kean v. Dormay, 15 E. R. 161.

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5 Eliz. c. 4

then upon the complaint of such housekeeper made to one justice of the peace of the county wherein the said refusal is or shall be made, or of such householder inhabiting in any city town corporate or market town, to the mayor bailiffs or head officer of the said city town corporate or market town if any such refusal shall there be, they shall have full power and authority by virtue hereof to send for the same person so refusing: And if the said justice or the said mayor or head officer shall think the said person meet and convenient to serve as an apprentice in that art labour science or mystery wherein he shall be so then required to serve: That then the said justice or the said mayor or head officer shall have power and authority by virtue hereof, if the said person refuse to be bound as an apprentice, to commit him unto ward, there to remain until he be contented and will be bounden to serve as an apprentice should serve according to the true intent and meaning of this present Act. And if any such (5) master shall misuse or evil entreat (6) his apprentice, or that the said apprentice shall have any just cause to complain or the apprentice do not his duty to his master, (7) then the said master or apprentice being grieved and having cause to complain, shall repair unto one justice of peace within the said county or to the mayor or other head officer of the city town corporate market town or other place where the said master dwelleth, who shall by his wisdom and discretion take such order and direction between the said master and his apprentice as the equity of the cause shall require, and if for want of good conformity in the said master, the said justice of peace or the said mayor or other head officer cannot compound and agree the matter between him and his apprentice, then the said justice or the said mayor or other head officer shall take bond of the said master to appear at the next sessions (8) then to be holden in the said county or within the said city town corporate or market town, to be before the justices of the said county or the mayor or head officer of the said town corporate or market town if the said master dwell (9) within any such; and upon his appearance (10) and hearing of the matter before the said justices or the said mayor or other head officer, if it be thought meet unto them to discharge (11) the said apprentice of his apprenticehood, that then the said justices or four of them at the least whereof one to be of the *quorum*, or the said mayor or other head officer with the assent of three other of his brethren or men of best reputation within the said city town corporate or market town shall have power by

The Remedy for the Apprentice which is misused by his Master, and for the Master when the Apprentice doth not his Duty
1 *Mod.* 287.
1 *Salk* 67. 68.
2 *Salk.* 490. 491.

Where an Apprentice may be discharged of his Apprenticehood.

(5) This was held in R. *v.* Gately, 2 Salk. 471. to relate only to the occupations mentioned in the Act, but was afterwards, in Rex *v.* Collingbourne, 2 Ld. Raym 1410 1 Str 663. ruled to be general

(6) This extends to neglect of instruction R *v* Amies, 1 Bott. 574.—A discharge for using unkindly is too loose R *v* Easman, 2 Str 1014.

(7) Incurable sickness (viz. the King's Evil) in the apprentice held no ground of discharge. R *v.* Inhabitants of Hales Owen, 1 Str 99. [But Qu. How could this question arise with the inhabitants of a parish?] A discharge of an apprentice, as being an ideot incapable of learning his trade, had been previously held good. Anon Skin. 114.

(8) The Sessions have original jurisdiction, without previous application to a Justice of Peace. R. *v.* Johnson, 1 Salk 68.—R *v.* Gill, 1 Str 143. R. *v.* Davis, 2 Str. 704.—R. *v.* Easman, Temp. Hard. 101. But it must be a General Sessions. 2 Skin. 98.

(9) The Sessions of Middlesex have jurisdiction, when the Master, being a Freeman of London, dwells there, although the indentures are ingrolled in London, notwithstanding the saving of the privileges of the City of London, by Sec. 40. R. *v.* Collingbourne, Str 663.

(10) The order is good although the Master do not appear, being bound over to do so. Ditton's Case, 2 Salk. 490.—But the order must set forth that the party appeared or was summoned R *v.* Gill, 1 Str 143. R. *v* Easman, 2 Str 1013.

(11) In Hawkesworth and Hillary's case, 1 Saund 311 the Order directed part of the premium to be returned, but the right of doing so does not appear to have been brought before the Court. In Du Hamel's case, 2 Skin 108. the Court held that the power to order money to be returned was incident to the power to discharge. So Rex *v.* Johnson, Salk 67.—In R. *v.* Vandeleer, M. 4. Geo. I. Str. 69. the Order was to return the Premium, and also to pay 5*l.* as a further provision. The Court said, that it was very hard that if the master misuse his apprentice he should pay nothing back if he is discharged, but the Statute being silent, the Order must be quashed. In Rex *v.* Amies, H 6 Geo. II 1 Bott 574 Pl. 806. 2 Barn. K. B. 244. 296. Sess. W 190, an opinion is expressed in favour of the power, by Probyn. I.; but the Order having been set aside on other grounds, this is merely a dictum, and the case of R *v.* Vandeleer, against the power, is the latest actual authority upon the subject.

No. I.

5 Eliz. c. 4.

authority hereof in writing under their hands and seals (12) to pronounce and declare, That they have discharged the said apprentice of his apprenticehood and the cause thereof; and the said writing so being made and enrolled by the clerk of the peace or town clerk amongst the records that he keepeth, shall be a sufficient discharge for the said apprentice against his master his executors and administrators; the indenture of the said apprenticehood or any law or custom to the contrary notwithstanding. And if the default shall be found to be in the apprentice, then the said justices or the said mayor or other head officer with the assistance aforesaid shall cause such due correction and punishment to be ministred unto him as by their wisdom and discretions shall be thought meet.

None shall be bound to be Apprentices but those which be under xxi years of age.

XXXVI. Provided always, and be it enacted by authority of this present Parliament, That no person shall by force or colour of this estatute be bounden to enter into any apprenticeship other than such as be under the age of twenty-one years.

Assembly of the Justices twice in the year for the due Execution of this Statute. *Dyer* 265. *Pl.* 3.

XXXVII. And to the end that this estatute may from time to time be carefully and diligently put in good execution according to the tenor and true meaning thereof, be it enacted by authority of this present Parliament, That the justices of peace of every county dividing themselves into several limits, and likewise every mayor and head officer of any city or town corporate shall yearly between the Feast of St. *Michael* the Archangel and the Nativity of our Lord, and between the Feast of the Annunciation of our Lady and the Nativity of St. *John Baptist*, by all such ways and means as to their wisdoms shall be thought most meet, make a special and diligent inquiry of the branches and articles of this estatute, and of the good execution of the same; and where they shall find any defaults to see the same severely corrected and punished without favour affection malice or displeasure.

The Justices' Allowance for their Pains.

XXXVIII. And in consideration of the pains and travel that the said justices of peace and the said mayor and head officer shall take and sustain in and about the execution of this estatute, it is further ordained and enacted by authority of this present Parliament, That every justice of peace mayor or head officer for every day that he shall sit in about the execution of this estatute shall have allowed unto him five shillings, to be allowed and paid unto him or unto the said mayor or head officer, of the fines and forfeitures of the pains and penalties that shall be forfeited and due unto the Queen's Majesty her heirs and successors by force of this estatute, in such manner and form as the said justices have been heretofore commonly paid for their coming and charges at the quarter sessions; so that the sitting of the said justices or mayor or head officer be not at any one time above three days, and for the matters contained in this estatute.

Who shall have the Forfeitures mentioned in this Statute. Moor 886. 1 Cro. 499.

XXXIX. And be it enacted by the authority aforesaid, That the one half of all forfeitures and penalties expressed and mentioned in this estatute, other than such as are expressly otherwise appointed, shall be to our Sovereign Lady the Queen's Majesty her heirs and successors, and the other moiety to him or them that shall sue for the same in any of the Queen's Majesty's courts of record, or before any of the justices of *Oyer* and *Terminer*, or before any other justices or president and council before remembered by action of debt information bill of complaint or otherwise; in which actions or suits, no protections wager of law or essoin shall be allowed; and that the said justices, or two of them, whereof one to be of the *quorum*, and the said presidents and council as is aforesaid, and the said mayors or other head officers of cities or towns corporate shall have full power and authority to hear and determine all and every offence and offences that shall be committed or done against this estatute or against any branch thereof, as well upon indictment to be taken before them in the sessions of the peace, as upon information ac-

Justices of Peace, Mayor, &c. may hear and determine all Offences committed against this Statute 31 El. c. 5. 1 Salk. 370. 2 *Ld. Raym.* 767. 6 *Mod.* 220.

(12) It is a fatal defect if the order do not appear to be under hand and seal. Hawksworth and Hillary's case, 1 Saund. 314.—R. v. Gately, Carth. 198. Comb. 344. (by the name of Gately v. Green) Anon. 2 Salk. 470.

No. I.

5 Eliz. c. 4.

tion of debt or bill of complaint to be sued or exhibited by any person; and shall and may by virtue hereof make process against the defendant and award execution, as in any other case they lawfully may by any the laws and statutes of this realm; and shall yearly in *Michaelmas* Term certify by estreat the fines and forfeitures of every the offences contained in this estatute that shall be found before them into the Court of Exchequer, in like sort and form as they be bound to certify the estreats for other offences and forfeitures to be lost before them; any thing in this statute contained to the contrary notwithstanding.

A Proviso for the Cities of London and Norwich.

XL. Provided always, That this Act or any thing therein contained or mentioned shall not be prejudicial or hurtful to the cities of *London* and *Norwich*, or to the lawful liberties usages customs or privileges of the same cities, for or concerning the having or taking of any apprentice or apprentices; but that the citizens and freemen of the same cities shall and may take have and retain apprentices there, in such manner and form as they might lawfully have done before the making of this statute; this Act or any thing therein contained to the contrary in any wise notwithstanding.

The Forfeiture of him that taketh a Prentice otherwise than is limited by this Statute.

XLI. And be it also further enacted, That all indentures covenants promises and bargains of or for the having taking or keeping of any apprentice, otherwise hereafter to be made or taken than is by this statute limited ordained and appointed, shall be clearly void in the law to all intents and purposes; (13) and that every person that shall from hence-

(13) It is fully settled that these words shall not be construed to render the Indenture of Apprenticeship absolutely void, and that it is only voidable; although a different construction is put upon the same words in Statutes 8 Ann, c. 9, 9 Ann, c. 21. imposing a duty on Premiums of Apprenticeship; as to which, see Jackson *v.* Warwick, 7 T. R. 121. The principle that Indentures not conformable to the Statute are only voidable, was first applied to Cases of Settlement; but in Rex. *v.* Evered, Cald. 26. cited 16 East. 2711, it was held that a person who, when an infant, had been bound an apprentice for six years, and, when of age, had run away, (alleging afterwards that he did so with intent to avoid the indentures) was subject to punishment. Aston I. said, "Supposing the Indentures voidable, I cannot conceive that the Apprentice's running away could avoid them; had he served regularly, and during such service declared his intention to depart, it might have been different: here he would make use of his offence in order to avoid the punishment that attends it; but it is too late to do it before a Justice when charged with a crime." And this case was admitted as authority in Gray *v.* Cookson, 16 East. 13. In Rex *v.* Windingham, 6 T. R. 557, (a settlement case,) an infant, bound for less than seven years with his master's consent, entered into the King's service; and this was held not to be such an avoidance of the Indenture as to enable him to acquire a settlement by service during the term. Lord Kenyon, after expressing his opinion that the Indenture had not been put an end to, added, "But I desire it may not be taken for granted, that an infant who binds himself apprentice, a contract *so notoriously for his own benefit*, may put an end to that contract at any time during his minority. I enter my protest against discussing that question now; it will be sufficient to determine it when it necessarily arises." And in Ashcroft *v.* Bertles, 6 T. R. 652, it was ruled, that an action lies for harbouring an apprentice bound for six years, who left his master's service after attaining the age of 21, and the Court said, that, supposing the Indentures to be void, which they were not prepared to decide, the mere act of quitting the master's service was not an avoidance of them. See note to Section 43, infra.—It is very difficult to conceive how such strong words as those in the Statute respecting contracts being clearly void, could be reconciled to the doctrine, that such contracts were in any respect avoidable; or how the decisions in support of the validity of such contracts can be reconciled with numerous decisions respecting other subjects; or the same subject, as regulated by a different Act, in which similar words have received a construction according to their full and literal signification. Still less is the construction which has prevailed to be reconciled with the general scope and object of the Statute, in subjecting almost every occupation to minute, however injudicious, regulation. Neither can it be conceived, upon what legal principle words, which are so strong and positive in themselves, should not only be reduced in their construction below their natural and ordinary signification, but should be held to be so absolutely nugatory and inefficient as to admit of no possible operation, even with respect to the most solemn and formal avoidance of an instrument, which the law has declared to be absolutely void.—As to the supposition of a contract of apprenticeship being so notoriously for the benefit of the infant, it is a supposition which, when taken generally and indiscriminately, is absolutely and notoriously false; as the actual benefit must depend upon a great many adventitious circumstances, with respect to the kind of occupation, the variations in the course of trade, the skill, the character, and the disposition, of the respective parties. But of all the difficulties incident to the subject, the greatest will be, to reconcile the decision in Ashcroft *v.* Bertles, to that in the case ex parte Davies, mentioned in the following Note.

forth take or newly retain any apprentice contrary to the tenor and true meaning of this Act, shall forfeit and lose for every apprentice so by him taken the sum of ten pounds.

No. I.
5 Eliz. c. 4.

'XLII. And because there hath been and is some question and scruple 'moved, whether any person being within the age of one and twenty 'years, and bounden to serve as an apprentice in any other place than in 'the said city of *London*, should be bounden accepted and taken as an 'apprentice;'

He that is bound Apprentice within the Age of xxj. years is compellable to serve. *Cro. Car.* 179.

XLIII. For the resolution of the said scruple and doubt, be it enacted by authority of this present Parliament, That all and every such person or persons that at any time or times from henceforth shall be bounden by indenture to serve as an apprentice in any art science occupation or labour, according to the tenor of this estatute and in manner and form aforesaid, albeit the same apprentice or any of them shall be within the age of one and twenty years at the time of the making of their several indentures, shall be bounden to serve for the years in their several indentures contained, as amply and largely to every intent as if the same apprentice were of full age at the time of the making of such indentures; any law usage or custom to the contrary notwithstanding. (14)

XLIV. Provided always, and be it enacted by the authority aforesaid, That the inhabitants now dwelling or inhabiting or that hereafter shall dwell or inhabit within the town of *Godalming* within the county of *Surrey*, within the limits of the watch of the said town, may use and exercise such arts mysteries and occupations, and take and use apprentices and servants in such manner and form as the inhabitants within market-towns by this statute may lawfully do.

A Proviso for the Inhabitants of Godalming, in Surrey.

XLV. Provided always, and be it enacted by the authority aforesaid, That all manner amerciaments fines issues and forfeitures which shall arise grow or come by reason of any offences or defaults mentioned in this Act or any branch thereof within any city or town corporate, shall be levied gathered and received by such person or persons of the same city or town corporate as shall be appointed by the mayor or other head officers mentioned in this said Act, to the use and maintenance of the same city or town corporate, in such case and condition as any manner

Who shall have the Forfeiture in Cities and Towns Corporate.

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(14) This Clause seems sufficiently explicit with respect to the obligatory force of contracts of apprenticeship entered into by infants, conformably to the regulations of the Statute; but in the case ex parte Davies, 5 T. R. 715. a woman, who had been bound for seven years, having attained the age of twenty-one, was discharged on Habeas Corpus; and Lord Kenyon said, "Every indenture of an infant is voidable at his election. But when the binding is under the authority of an Act of Parliament, that takes away the power of electing to vacate the indentures. But I know of no Act which prohibits the party, in a case like the present, to make such election upon her coming of age. The Apprentice ought not to have been bound longer than till she was twenty-one, and we ought now to discharge her."—In ex parte Gill., 7 East. 376. an apprentice having applied for a Habeas Corpus, after being committed under the authority of 20 G. II. c. 19, notwithstanding he objected that the indenture was not obligatory after he came of age, the Court held, that he must be remanded; and that, however the circumstances laid before the Court by affidavit might, if well founded, be matter of defence against the charge before the Magistrates, they could not be then examined by the Court; that if the defence had been made before the Magistrates, and they had disregarded it, the party had a remedy against them; but that the Court had no authority to discharge the Apprentice from his indentures: and that there was a mistake in that respect in the report of Davis's case; the judgment of the Court there being, that "the Apprentice should be discharged out of the *custody* of her master, in whose custody she was when brought up before the Court." Upon revising these authorities, I cannot help thinking that it would have been more accurate to have said, that Davis's case was hastily and improperly decided, than that it was erroneously reported; as there is no trace of any other custody than that controul which a master regularly has over his Apprentice; and the whole tenor of the judgment applies to the power of rescinding the contract, and not to any complaint of improper confinement and coercion. The power under Statute 43 Eliz. c. 2. (see the next Number of this Class) of binding poor apprentices, is with respect to women confined to 21, or marriage; but so far is there from being any thing in the Statute 5 Eliz. with respect to Apprentices in general, to indicate such restriction, that by Section 25 it is provided, that the Apprentices there mentioned shall be bound until the age of 21 years at the least, or 24 years, as the parties can agree; and by Section 26, the party is to be bound to the age of 24 years at least.

No. I.
5 Eliz. c. 4.

other amerciaments fines issues or forfeitures have been used to be used to be levied and employed within the same city or town corporate, by reason of any grant or charter from the Queen's Majesty that now is or of any her Grace's noble progenitors, made and granted to the same city borough or town corporate; any thing or clause before-mentioned and expressed in this Act to the contrary notwithstanding.

Retainings and Covenants made before this Statute.

XLVI. Provided always, that this Act or any thing therein contained shall not extend to any lawful retainings or covenants had or made before the making of this Act, but that all and every the parties to such retainings or covenants shall and may have the same and like advantages of such retainings and covenants and of the statutes heretofore in that behalf provided as if this Act had never been had or made; any clause of repeal or other matter whatsoever in this Act to the contrary in any wise notwithstanding.

A Remedy for those Servants which depart from their Masters, and do flee into other Shires.

XLVII. And be it further enacted by the authority aforesaid, That if any servant or apprentice of husbandry or of any art science or occupation aforesaid unlawfully depart or flee into any other shire, that it shall be lawful to the said justices of peace and to the said mayors bailiffs and other head officers of cities and towns corporate for the time being justices of peace there, to make and grant writs of *capias*, so many and such as shall be needful, to be directed to the sheriffs of the counties or to other head officers of the places whither such servants or apprentices shall so depart or flee, to take their bodies returnable before them at what time shall please them; so that if they come by such process that they may be put in prison till they shall find sufficient surety well and honestly to serve their masters mistresses or dames from whom they so departed or fled, according to the order of the law. (15)

High Constables may keep Statute Sessions.

XLVIII. Provided always, That it shall be lawful to the high constables of hundreds in every shire to hold keep and continue petty-sessions otherwise called statute-sessions within the limits of their authorities, in all shires wherein such sessions have been used to be kept in such manner and form as heretofore hath been used and accustomed, so as nothing be by them done therein contrary or repugnant to this present Act. (16)

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(15) Vide 16 East. 13.

(16) It was omitted to notice at the proper place, with reference to Section VI. and XIV., that the power of rating wages is held to give, by implication, a power of recovering them before Justices of Peace. R. *v.* Gouche, 2 Salk. 441. But this power, as well as the power of discharge, (Sect. VI.) is confined to the case of servants in husbandry; and it must appear on the face of the order that it was a service in husbandry. R. *v.* Welling, 1 Str. 8.—R. *v.* Clegg, 1 Str. 475.—R. *v.* Hulcot, 6 T. R. 583.—As to the power of discharging the servant for insanity, see the last mentioned case of R. *v.* Hulcot.

℘. [No. II.] 43 Eliz. c. 2.—An Act for the Relief of the Poor. (1)

43 Eliz. c. 2.
Binding of Children Apprentices.
1 Jac. 1. c. 25.
3 Car. 1. c. 4.

V. AND be it further enacted, That it shall be lawful for the said churchwardens and overseers or the greater part of them, by the assent of any two justices of the peace aforesaid, to bind any such children as aforesaid to be apprentices where they shall see convenient till such man-child shall come to the age of four and twenty years and such woman-child to the age of one and twenty years or the time of her marriage; the same to be as effectual to all purposes as if such child were of full age and by indenture of covenant bound him or herself.

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(1) See this Act at large with Notes, post title Poor.

[No. III.] 7 James I. c. 3.—An Act for the Continuing and better Maintenance of Husbandry and other

manual Occupations, by the true Employment of Monies given and to be given for the Binding out of Apprentices.

No. III. 7 James I. c. 3.

P.

[No. IV.] 8 & 9 William III. c. 30.—An Act for supplying some Defects in the Laws for the Relief of the Poor of this Kingdom. (1)

8 & 9 Will. III. c. 30.
43 Eliz. c. 2.

'V. AND whereas by an Act made in the three and fortieth year of the reign of Queen Elizabeth, intituled *An Act for the Relief of the Poor*, it is amongst other things enacted, That it shall be lawful for the churchwardens and overseers of the poor of any parish or the greater part of them, by the assent of two justices of the peace whereof one to be of the *quorum*, to bind poor children apprentices where they shall see convenient; but there being doubts whether the persons to whom such children are to be bound are compellable to receive such children as apprentices, that law hath failed of its due execution:' Be it therefore enacted and declared by the authority aforesaid That where any poor children shall be appointed to be bound apprentices pursuant to the said Act, the person or persons to whom they are so appointed to be bound shall receive and provide for them according to the indenture signed and confirmed by two justices of the peace and also execute the other part of the said indentures; and if he or she shall refuse so to do, oath being thereof made by one of the churchwardens or overseers of the poor before any two of the justices of the peace for that county liberty or riding, he or she for every such offence shall forfeit the sum of ten pounds to be levied by distress and sale of the goods of any such offender by warrant under the hands and seals of the said justice, the same to be applied to the use of the poor of that parish or place where such offence was committed; saying always to the person to whom any poor child shall be appointed to be bound an apprentice as aforesaid, if he or she shall think themselves aggrieved thereby, his or her appeal to the next general or quarter sessions of the peace for that county or riding, whose order therein shall be final and conclude all parties.

Poor Children bound Apprentices pursuant to the Act 43 Eliz. c. 2. those to whom they are bound to provide for them according to the Indenture signed by the Justices, &c.

Penalty on Offender.

Persons to whom young Children are bound being aggrieved may appeal to the Justices.

(1) See this Act at large, with Notes post title POOR, Vol. 8.

[No. V.] 2 & 3 Anne, c. 6.*—An Act for the Increase of Seamen, and better Encouragement of Navigation, and Security of the Coal Trade.

[* This Act contains several regulations with respect to binding Apprentices to the sea service, which, on account of the limited nature of the subject, it is not thought material to insert. They are fully stated in Burn, title Apprentices.]

[No. VI.] 20 George II. c. 19.—An Act for the better Adjusting and more easy Recovery of the Wages of certain Servants; and for the better Regulation of such Servants, and of certain Apprentices.

20 Geo. II. c. 19.
5 Eliz. c. 4.
1 Jac. 1. c. 6.

'WHEREAS the laws now in being for the better Regulation of Servants, and for the Payment of Wages to them, and to Artificers Handicraftsmen and Labourers, are insufficient and defective:' For remedy whereof, Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the twenty-fifth day of *March* which will be in the year of our Lord one thousand seven hundred and forty-seven, all complaints differences and disputes which shall happen

Differences to be determined by a Justice of Peace.

No. VI.
20 Geo. II.
c. 19.

and arise between masters or mistresses and servants in husbandry who shall be hired for one year or longer, or which shall happen or arise between masters and mistresses and artificers handicraftsmen miners colliers keelmen pitmen glassmen potters and other labourers (1) employed for any certain time or in any other manner shall be heard and determined by one or more justice or justices of the peace of the county riding city liberty town corporate or place where such master or mistress shall inhabit, although no rate or assessment of wages has been made that year by the justices of the peace of the shire riding or liberty, or by the mayor bailiffs or other head officer where such complaints shall be made, or where such differences or disputes shall arise; which said justice or justices is and are hereby empowered to examine upon oath any such servant artificer handicraftsman miner collier keelman pitman glassman potter or other labourer, or any other witness or witnesses touching any such complaint difference or dispute, and to make such order for payment of so much wages to such servant artificer handicraftsman miner collier keelman pitman glassman potter or other labourer, as to such justice or justices shall seem just and reasonable, provided that the sum in question do not exceed ten pounds with regard to any servant, nor five pounds with regard to any artificer handicraftsman miner collier keelman pitman glassman potter or labourer; and in case of refusal or nonpayment of any sums so ordered by the space of one and twenty days next after such determination, such justice and justices shall and may issue forth his and their warrant to levy the same by distress and sale of the goods and chattels of such master or mistress or person employing such artificer handicraftsman miner collier keelman pitman glassman potter or other labourer, rendering the overplus to the owners, after payment of the charges of such distress and sale. (2)

Justices to examine Servants, &c. upon Oath, and make order for payment of Wages due, if under a certain Sum.

On Non-payment to be levied by Distress and Sale.

II. And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for such justice or justices upon application or complaint made upon oath by any master mistress or employer, (3) against any such servant artificer handicraftsman miner collier keelman pitman glassman potter or labourer, touching or concerning any misdemeanor miscarriage or ill-behaviour in such his or her service or employment (which oath such justice or justices is and are hereby empowered to administer) to hear examine and determine the same; and to punish the offender by (4) commitment to the House of Correction, there to remain

Justices to hear Master's Complaints on Oath;

and to punish the Offender.

(1) This provision extends to all labourers in general, as well as those in the particular occupations mentioned; and includes the case of a person sinking a well, to be paid by the piece. See Lowther *v.* the Earl of Radnor. 8 East. 113. Some objections having been made in consequence of provisions in subsequent Acts, appearing to interfere with this construction; Lord Ellenborough said, "The true answer seems to be, that at the time of passing one Act the Legislature has not always had every other Act containing provisions bearing upon the same subject, brought under its consideration.

(2) Replevin cannot be maintained for goods distrained by virtue of a warrant from a Magistrate who has competent jurisdiction under the statute of labourers, (20 Geo. II. c. 19. s. 1.) to issue a warrant of distress and sale on refusal of the party to pay, nor can the question of a Magistrate's jurisdiction be tried in such an action; and therefore it cannot be pleaded in bar to a recognisance made under such warrant, that the labourer did not duly make oath before the Magistrate that the sum claimed was due to him for wages, nor that such sum was not due. Wilson *v.* Weller. 3 Moore, 294, s. c. Taunt. & Brod. 57.

(3) The employer is the person on whose service the employment is, and not the bailiff, though the contract of hiring may have been personally with the bailiff. R. *v.* Hoseason 14. East. 605.

(4) Under the Stat. 20 Geo. II. c. 19. s. 2. for regulating servants in husbandry artificers and other labourers there mentioned, if a justice of the peace, upon a complaint made to him of the misconduct of such persons in their employments, sentence the offender to be committed to the house of correction for a time not exceeding one calendar month, he must if he intend to proceed upon that statute also sentence him there to be corrected and held to hard labour; but the statute gives the justice an option to punish the offender in that manner or otherwise by abating part of his wages or by discharging him from his employment. And the meaning the terms "there to be corrected," is to be understood of a correction by whipping. But this latter punishment cannot be inflicted upon the like offender under the Stat. 6 Geo. III. c. 25. which enables the justice to commit the offenders to the house of correction for any time not exceeding three months nor less than one month; nor can the punishments inflicted by the two Acts be blended. Rex *v.* Hoseason, 14 E. R. 605.

No. VI.
20 Geo. II. c. 19.

and be corrected, (5) and held to hard labour for a reasonable time not exceeding one calendar month, or otherwise by abating some part of his or her wages, or by discharging such servant artificer handicraftsman miner collier keelman pitman glassman potter or labourer, from his her or their service or employment: And in like manner also it shall and may be lawful to and for such justice or justices, upon any complaint or application upon oath by any such servant artificer handicraftsman miner collier keelman pitman glassman potter or other labourer, against such master mistress or employer, touching or concerning any misusage refusal of necessary provision cruelty or other ill-treatment of to or towards such servant artificer handicraftsman miner collier keelman pitman glassman potter or other labourer, and to summon such master mistress or employer to appear before such justice or justices at a reasonable time to be prefixed in such summons; and such justice or justices shall and may examine into the matter of such complaint, whether such master mistress or employer shall appear or not; proof being made upon oath of his or her being duly summoned; and upon proof thereof made upon oath to his or their satisfaction, to discharge such servant artificer handicraftsman miner collier keelman pitman glassman potter or other labourer, of and from his said service and employment; which discharge shall be given under the hand and seal or hands and seals of such justice or justices *gratis*. (6)

Justices to hear Servants' Complaints on Oath, and to summon the Master, &c. and upon satisfactory Proof to discharge the Servant.

III. And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for any two or more such justices, upon any complaint or application by any apprentice put out by the parish, or any other apprentice upon whose binding out no larger a sum than five pounds of lawful *British* money was paid, touching or concerning any misusage refusal of necessary provision cruelty or other ill-treatment of or toward such apprentice by his or her master or mistress, to summon such master or mistress to appear before such justices at a reasonable time to be named in such summons; and such justices shall and may examine into the matter of such complaint; and upon proof thereof made upon oath to their satisfaction (whether the master or mistress be present or not, if service of the summons be also upon oath proved) the said justices may discharge such apprentice by warrant or certificate under their hands and seals; for which warrant or certificate no fees shall be paid.

Justices on Complaint of Apprentices, to summon the Master, &c. and upon satisfactory Proof, to discharge the Apprentice.

IV. And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for such justices, upon application or complaint made upon oath by any master or mistress (7) against any such apprentice, touching or concerning any misdemeanor miscarriage or ill-behaviour in such his or her service (which oath such justices are hereby empowered to administer), to hear examine and determine the same and to punish the offender by commitment to the House of Correction, there to remain and be corrected and held to hard labour for a reasonable time

Justices upon Complaint of Masters against Apprentices, and Proof upon Oath, to punish the Offender by Commitment, &c.

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(5) *Correction* means corporal punishment by whipping, and is a necessary part of the judgment. A commitment to the House of Correction, there to be corrected, imports correction by whipping; but under the Statute 6 Geo. III. c. 25. (the next number), which authorises a commitment for not more than three months or less than one, bodily correction is no part of the sentence. Rex *v.* Hoseason, ub. supr.—The commitment must state that the party was convicted, not merely that he was charged. R. *v.* Cooper, 6, T. R. 509.

(6) Where a servant under a yearly hiring served two months and was then committed and imprisoned under the Stat. 20 Geo. II. c. 19. for misbehaviour to his master, and at the instance of his master, and after nine days' imprisonment, was upon the application of his master discharged and returned to him and served him as before, and no mention was made of the terms on which he was to serve, and he served in the whole from the time of the hiring for about nineteen months: Held: That the commitment and imprisonment were not a dissolution of the service, as to prevent a settlement; and therefore he gained a settlement by such hiring and service although he was married when he returned to his master, and received no wages for the time he was in custody. Rex *v.* Barton-upon-Irwell. (Julial.) 2 M. & S. 329.

(7) The application must be made by the master or mistress, but it may be verified by the oath of any other person who knows the fact complained of. Finlay *v.* Joule, 12 East. 242.

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20 Geo. II. c. 19.

not exceeding one calendar month, or otherwise by discharging such apprentice in manner and form before mentioned. (8)

Persons aggrieved may appeal. Exception.

V. Provided nevertheless, That if any person or persons shall think himself herself or themselves aggrieved by such determination order or warrant of such justice or justices as aforesaid (save and except any order of commitment (9) he she or they may appeal to the next general quarter sessions of the peace to be held for the county riding liberty city town corporate or place where such determination or order shall be made; which said next general quarter sessions is hereby empowered to hear and finally determine the same, and to give and award such costs to any of the respective persons appellant or respondent as the said sessions shall judge reasonable, not exceeding forty shillings; the same to be levied by distress and sale in manner before mentioned.

Costs not to exceed 40*s*.

No Certiorari.

VI. Provided also, and be it further enacted by the authority aforesaid, That no writ of *certiorari* or other process shall issue or be issuable to remove any proceedings whatsoever had in pursuance of this Act into any of his Majesty's courts of record at *Westminster*.

Stannaries not included.

VII. Provided always, That nothing in this Act contained shall extend to the stannaries in the counties of *Devon* and *Cornwall*.

(8) This provision is not repealed by Statute 6 Geo. III. c. 25: (the next number), empowering justices to oblige an apprentice to serve the time of absence after the expiration of his term. Gray *v.* Cookson, 16 East. 12.

(9) There is no appeal against a conviction and order of commitment in execution; which, under this Act, are one and the same thing. R. *v.* Justices of Staffordshire, 12 East. 572.

See 5 Eliz. c. 4.

[No. VII.] 6 George III. c. 25.—An Act for better regulating Apprentices, and Persons working under Contract. (1)

6 Geo. III. c. 25.

'WHEREAS persons employed in several manufactories of this kingdom frequently take apprentices who are very young and for several years of their apprenticeships are rather a burthen than otherwise to their masters: And whereas it frequently happens that such apprentices when they might be expected to be useful to their masters absent themselves from their service. And whereas the laws in being are not sufficient to prevent these inconveniences:' For remedy whereof, may it please your Majesty that it may be enacted; and be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the twenty-fourth day of *June*, one thousand seven hundred and sixty-six, if any apprentice shall absent himself from his master's service before the term of his apprenticeship shall be expired, every such apprentice shall at any time or times thereafter whenever he shall be found be compelled to serve his said master for so long a time as he shall have so absented himself from such service, unless he shall make satisfaction to his master for the loss he shall have sustained by his absence from his service; and so from time to time as often as any such apprentice shall without leave of his master absent himself from his service before the term of his contract shall be fulfilled: And in case any such apprentice shall refuse to serve as hereby required or to make such satisfaction to his master, such master may complain upon oath to any justice of the peace of the county or place where he shall reside, which oath such justice is hereby empowered to administer and to issue a warrant under his hand and seal for apprehending any such apprentice; and such justice upon hearing the complaint may determine what satisfaction shall be made to such master by such apprentice; and in case such apprentice shall not give security to make such satisfaction according to such determination, it shall and may be

Justices empowered to oblige Apprentice to serve for such Term as he shall absent, &c.

(1) See the Notes to the preceding Number.

lawful for such justice to commit every such apprentice to the house of correction for any time not exceeding three months.

No. VII. 6 Geo. III. c. 25.

II. Provided always, That nothing in this Act contained shall extend to any apprentice whose master shall have received with such apprentice the sum of ten pounds.*

III. Provided also, That no apprentice shall be compelled to serve for any time or term or to make any satisfaction to any master after the expiration of seven years next after the end of the term for which such apprentice shall have contracted to serve; any thing herein contained to the contrary notwithstanding.

* except as to Apprentices paying 10*l.* Fee; or where seven Years shall have elapsed.

'IV. And whereas it frequently happens that artificers callicoe printers handicraftsmen miners colliers keelmen pitmen glassmen potters 'labourers and others who contract with persons for certain terms do 'leave their respective services before the terms of their contracts are 'fulfilled, to the great disappointment and loss of the persons with 'whom they so contract;' For remedy whereof, be it further enacted by the authority aforesaid, That from and after the said twenty-fourth day of *June* one thousand seven hundred and sixty-six, if any artificer callicoe printer handicraftsman miner collier keelman pitman glassman potter labourer or other person shall contract with any person whomsoever for any time or times whatsoever and shall absent himself from his service before the term of his contract shall be completed or be guilty of any other misdemeanour; that then and in every such case it shall and may be lawful for any justice of the peace of the county or place where any such artificer callicoe printer handicraftsman miner collier keelman pitman glassman potter labourer or other person shall be found, and such justice is hereby authorized and impowered upon complaint thereof made upon oath to him by the person with whom such artificer callicoe printer handicraftsman miner collier keelman pitman glassman potter labourer or other person shall have so contracted or by his or her steward or agent, which oath such justice is hereby empowered to administer to issue his warrant for the apprehending every such artificer callicoe printer handicraftsman miner collier keelman pitman glassman potter labourer or other person and to examine into the nature of the complaint; and if it shall appear to such justice that any such artificer callicoe printer handicraftsman miner collier keelman pitman glassman potter labourer or other person shall not have fulfilled such contract or hath been guilty of any misdemeanour, it shall and may be lawful for such justice to commit every such person to the house of correction for the county or place where such justices shall reside for any time not exceeding three months nor less than one month.

See 20 Geo. II. c. 19. 32 Geo. II. c. 11. f. 3.

Justices empowered to grant Warrants against Artificers, &c. not fulfilling their Contract, &c.

V. Provided always, That if any person shall think himself aggrieved by such determination order or warrant of any justice of the peace as aforesaid except an order of commitment, every such person may appeal to the next general quarter sessions of the peace to be held for the county or place where such determination or order shall be made; such person giving six days' notice of his intention of bringing such appeal, and of the cause and matter thereof, to such justice of the peace and the parties concerned, and entering into a recognizance within three days after such notice before some justice of the peace for such county or place, with sufficient surety, conditioned to try such appeal at and abide the order or judgment of and pay such costs as shall be awarded by the justices at such quarter sessions; which said justices at their said sessions, upon due proof of such notice being given, and of entering into such recognisances as aforesaid, shall and are hereby directed to proceed in hear and determine the causes and matters of all such appeals; and shall give such relief and costs to the parties appealing or appealed against, as they in their discretion shall judge proper and reasonable; and their judgments and orders therein shall be final and conclusive to all parties concerned.

Appeal.

VI. Provided also, That nothing in this Act contained shall extend to the Stannaries in the counties of *Devon* and *Cornwall*, or to impeach or lessen the jurisdiction of the Chamberlain of the city of *London*, or of any other court within the said city, touching apprentices.

Stannaries and London.

No. VIII.
18 Geo. III.
c. 47.

[No. VIII.] 18 George III. c. 47.—An Act to amend such Part of an Act, made in the Forty-third Year of the Reign of Queen *Elizabeth*, intituled, *An Act for the Relief of the Poor*, as relates to the binding of Parish Apprentices.

18 Geo. III. c. 47.
43 Eliz. c. 2.

'WHEREAS in and by an Act made in the forty-third year of the reign of Queen *Elizabeth* (intituled *An Act for the Relief of the Poor*), it was enacted, That it should be lawful for the churchwardens and overseers therein mentioned or the greater part of them, by the assent of any two justices of the peace, to bind the children of all such parents who shall not by the said churchwardens and overseers or the greater part of them be thought able to keep and maintain their children to be apprentices where they shall see convenient, till such man-child shall come to the age of four and twenty years and such woman-child to the age of one and twenty years or day of marriage: And whereas it has been found by experience that the said term respecting men children is longer than is necessary, and that if such man-child was bound to be an apprentice only till he came to the age of one and twenty years, all the benefits intended by the said Act would be preserved, the hardships brought on such parish apprentices by the length of their apprenticeship would be avoided, and the good harmony between master and apprentice would be better maintained;' may it therefore please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act when any man-child shall be bound to be an apprentice by virtue of and under the authority of the said Act, made in the forty-third year of Queen *Elizabeth*, such child shall be bound to be an apprentice for no longer term than till such child shall come to the age of twenty-one years. (1)

No Child to continue an Apprentice after the Age of 21.

(1) A parish apprentice was before the passing of Stat. 18 Geo. III. c. 47, bound till twenty-four and served till nearly attaining twenty-one, when his master being about to leave the parish and no longer wanting his service told him that he might leave him and go where he liked and shift for himself, but if he could not provide for himself he might return to him; upon which he quitted, and when he was about four months past twenty-one bound himself by indenture as apprentice to another master for three years, and served with him the three years: Held: that he did not acquire a settlement by service under the second indenture. Rex *v.* Bow (Julial.) 4 M. & S. 383.

[No. IX.] 20 George III. c. 36.—An Act for obviating Doubts, touching the binding and receiving of poor Children Apprentices, in pursuance of several Acts of Parliament made for the Relief of the Poor within particular incorporated Hundreds or Districts; and for ascertaining the Settlement of Bastard Children born in the Houses of Industry within such Hundreds or Districts.

20 Geo. III. c. 36.

'WHEREAS several Acts of Parliament have of late years been made and passed for the better relief and employment of the poor in particular incorporated hundreds or districts within that part of *Great Britain* called *England*, whereby power is given to bind poor children apprentices under certain restrictions therein mentioned: And whereas doubts have arisen whether persons are compellable to receive and provide for such poor children as shall be appointed to be bound apprentices to them in pursuance of the said Acts:' Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Par-

No. IX.
20 Geo. III. c. 36.

liament assembled, and by the authority of the same, That from and after the twenty-fourth day of *June* one thousand seven hundred and eighty, the respective persons to whom any poor children shall be appointed to be bound apprentices in pursuance of any Act or Acts of Parliament made and passed for the better relief and employment of the poor in any particular incorporated hundreds or districts within that part of *Great Britain* called *England*, shall and they are hereby required to receive and provide for such children according to the indentures to be executed by the directors and acting guardians of the poor for such respective hundreds or districts for the binding of such poor children in like manner as persons are now obliged by the laws in being to receive and provide for poor children appointed to be bound apprentices by churchwardens and overseers of the poor with the assent of two justices of the peace, and also to execute the counterpart of such indentures respectively: And if any person to whom any poor child shall be appointed to be bound apprentice in pursuance of any such Act of Parliament as aforesaid shall refuse or neglect to receive and provide for such poor child or to execute the counterpart of the indenture for binding such child as aforesaid, every person so refusing or neglecting, upon proof of such refusal or neglect being made by the oath of one of the directors or acting guardians or of some other credible witness before any two justices of the peace acting in and for the county liberty or place within which the incorporated hundred or district to which such child belongs shall be situate, shall forfeit and pay to the directors and acting guardians of the poor for such incorporated hundred or district or to their treasurer or appointee, to be applied to the relief of the poor within the same, the sum of ten pounds; such penalty or forfeiture to be levied by distress and sale of the goods of the person refusing or neglecting as aforesaid, by warrant under the hands and seals of such justices; saving always to the person to whom any poor child shall be so appointed to be bound an apprentice, his or her appeal to the next general or quarter session of the peace for that county liberty or place, whose order therein shall be final.

All Persons to whom any Children shall be appointed to be bound, obliged to provide for them, &c.

Appeal.

II. Provided always, That nothing in this Act contained shall be construed to compel any person to take any such poor child apprentice as aforesaid, unless such person shall be an inhabitant and occupier of lands tenements or hereditaments in the parish to which such child belongs; and that all bastard children born or to be born in the house of industry within any such incorporated hundred or district shall be deemed to belong to the parish or place where the mother of such bastard child was legally settled. (1)

(1) It is not necessary that the master should actually reside in the parish, if he be an occupier there it is sufficient, for inhabitant and occupier are for this purpose synonymous terms. Rex *v.* Tunsted and Happing Hundreds, 3 T. R. 523.

[No. X.] 32 George III. c. 57.—An Act for the further Regulation of Parish Apprentices.

32 Geo. III. c. 57.

Preamble.
43 Eliz. c. 2.

'WHEREAS by an Act passed in the forty-third year of the reign of Queen *Elizabeth*, intituled *An Act for the Relief of the Poor*, it is (amongst other things) enacted, That it shall be lawful for the churchwardens or overseers of the poor of any parish or the greater part of them, by the assent of two justices of the peace, to bind any children whose parents they shall judge to be not able to keep and maintain such children to be apprentices where they shall see convenient till such man-child shall come to the age of twenty-four years and such woman-child to the age of twenty-one years or the time of her marriage, the same to be as effectual to all purposes as if such child were of full age and by indenture of covenant bound him or herself: And whereas by an Act made in the eighth and ninth years of the reign of King *William*, intituled *An Act for supplying some Defects in the Laws*

8 and 9 Gul. III. c. 30. and

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'*for the Relief of the Poor of this Kingdom*, after reciting that there 'being doubts whether the persons to whom such children were to be 'bound under and by virtue of the said statute of the forty-third year of 'the reign of Queen *Elizabeth* were compellable to receive such children 'as apprentices, that law hath failed of its due execution, it was therefore 'enacted, That where any poor children should be appointed to be bound 'apprentices pursuant to the said Act of Queen *Elizabeth*, the persons to 'whom they are so appointed to be bound apprentices shall receive and 'provide for them according to the indenture signed and confirmed by 'the two justices of the peace, and also execute the other part of the 'said indentures under the penalty in case of refusal of the forfeiture of 'ten pounds for every such offence, to be levied of the goods of the 'offender in the manner mentioned in the said Act: And whereas by 'an Act passed in the eighteenth year of the reign of his present Majesty, 'intituled *An Act to amend such Part of an Act made in the forty-third 'Year of the Reign of Queen* Elizabeth, *intituled "An Act for the Relief 'of the Poor," as relates to the binding of Parish Apprentices*, it was 'enacted, That when any man-child should be bound to be an apprentice 'by virtue of the said Act made in the forty-third year of the reign of 'Queen *Elizabeth*, such child shall be bound to be an apprentice for no 'longer term than till he shall come to the age of twenty-one years: 'And whereas in such indentures of apprenticeship it hath been usual 'to insert several agreements and covenants to be done and performed 'by the several parties thereto; (that is to say) an agreement on the 'part of the apprentice, that he will faithfully serve his master during 'the term of such apprenticeship; and also several covenants on the part 'of the master for himself his executors and administrators, that he the 'said master will teach or cause to be taught such apprentice in the 'business of husbandry or in the craft mystery or occupation which such 'master then useth, as the case may be; and that such master shall 'also during the term of such apprenticeship find and allow unto such 'apprentice sufficient meat drink apparel and all other things needful 'for an apprentice during such term: And whereas, in the event of the 'death of the master during the term of such apprenticeship the agree-'ment for service on the part of the apprentice is at an end, but the 'covenant for maintenance on the part of the master still continues in 'force as far as the master's assets will extend, or doubts have arisen with 'respect thereto, and in consequence thereof such apprentices do fre-'quently on the death of their master leave their master's house and 'after living in idleness return again and become a burden on their 'master's effects and so from time to time as they think proper, which 'is attended with great inconvenience and hardship to the family and 'personal representatives of such master and is at the same time an in-'ducement to such apprentice to continue in a disorderly and idle course 'of life: And whereas the several powers given to justices of the peace 'for the better ordering of parish apprentices by the several Acts of Par-'liament made for that purpose do cease and determine on the death of 'the master, for which a remedy ought to be provided: And whereas 'several other regulations are necessary to be made respecting parish 'apprentices:" Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the first day of *July* one thousand seven hundred and ninety-two, in case of the death of any master or mistress of any parish apprentice during the term of such apprenticeship, upon the binding out of which apprentice no larger sum than five pounds has been or shall be paid, such covenant as is before mentioned for the maintenance of such apprentice inserted in the indenture of apprenticeship by which such apprentice shall have been or shall be bound, shall not continue and be in force for and during any longer time than for three calendar months next after the death of such master or mistress, and that during such three calendar months such apprentice shall continue to live with and serve as an apprentice the

18 Geo. III. c. 47, recited.

Covenants for Maintenance of Parish Apprentices, with whom no more than 5*l.* shall be given, to continue in force no longer than Three Months after the Death of the Master, &c.

executors and administrators of such master and mistress some or one of them, or such person or persons as such executors or administrators some or one of them shall appoint; and the master or mistress whom such apprentice shall accordingly serve during the said three calendar months, and also such apprentice shall during that time be subject and liable to all the laws which are or shall be in force for the better government and regulation of masters and parish apprentices; and that in all such parish indentures of apprenticeship as aforesaid which shall be made from and after the first day of *July* one thousand seven hundred and ninety-two, there shall be annexed to the covenant in such indentures to be entered into on the part of the master or mistress of such apprentice for such maintenance as aforesaid a proviso declaring that such covenant shall not be made to continue and be in force for any longer time than for three calendar months next after the death of such master or mistress in case such master or mistress shall die during the term of such apprenticeship; which proviso may be in the form or to the effect mentioned in the schedule hereunto annexed marked with the letter A; and in case such proviso shall happen to be omitted in any such indenture, the covenant therein contained on the part of the master for the maintenance of the apprentice shall be deemed and taken to continue and be in force for no longer time than for three calendar months next after the death of such master or mistress, in case such master or mistress shall die during the term of such apprenticeship; any thing in any such covenant to the contrary notwithstanding.

Proviso to that Effect to be annexed to Covenant, but if omitted, the Covenant to continue no longer in force.

II. 'And whereas it is just and reasonable, that such apprentice as 'aforesaid, in case of his master's death during his apprenticeship, should 'be obliged during the term of his apprenticeship to make some satisfac-'tion by his labour to the family or reprentatives of his deceased master, 'for the advantage he has received from his apprenticeship in his child-'hood, when his services could not be equal to the expences of his main-'tenance;' Be it enacted, That within such three calendar months after the death of such master or mistress, it shall and may be lawful for any two justices of the peace of the county city town riding division or place where such master or mistress shall have died, on application made to them by the widow of such master, or by the husband of such mistress, or by any son or daughter brother or sister, or by any executor or executrix administrator or administratrix of such master or mistress, by indorsement on any such indenture of apprenticeship, or the counterpart thereof, or by any other instrument in writing, (which indorsement or instrument may be in the forms or to the effect mentioned in the schedule hereunto annexed, marked with the letters B. and C.,) to order and direct that such apprentice shall serve as an apprentice any one of such persons so making such application as aforesaid (such person having lived with, and having been part of the family of such master or mistress at the time of his or her death) as the said justices shall in their discretion think fit, for and during the residue of the term mentioned in such indentures of apprenticeship; and the person obtaining such order shall declare his acceptance of such apprentice, by subscribing his or her name to such order; and that from and after such order shall be made, the executors and administrators and the personal assets, estate and effects of the master or mistress so dying as aforesaid, shall be released and discharged of and from any promise or covenant whatsoever, contained in any such indenture of apprenticeship, on the part of such master or mistress, his or her executors or administrators to be done and performed; and the person obtaining the same shall be, and be deemed and taken to be, the master or mistress of such apprentice, in like manner as if such apprentice had been originally bound to such master or mistress; and that such last-mentioned master or mistress his or her executors and administrators, each and every of them, shall be held and bound by the several promises and covenants contained in any such indenture of apprenticeship on the part of the master or mistress therein named his or her executors or administrators, to be done and performed in like manner as if such master or mistress obtaining such order as aforesaid had duly executed the counterpart of such

Within Three Months after the Death of a Master, two Justices may order Apprentices to serve the Residue of their Terms with Persons of the Description herein specified, on Application, &c.

No. X.
32 Geo. III. c. 57.

indenture; and that such master or mistress and apprentice shall be subject and liable to the several penalties provisions and regulations which shall then be in force for the better government and good order of master and parish apprentices; and that all justices of the peace shall have the like powers and authority with respect thereto, as they shall then have by any Act or Acts of Parliament relating to parish apprentices.

Provisions to take place on the Death of the original Master to extend to subsequent ones.

III. And be it further enacted, That all and singular the regulations and provisions herein-before made, and directed to take place on the death of the original master or mistress, shall be deemed and taken to relate to the like event of the death of any such subsequent master or mistress, and to their several relations and representatives before enumerated from time to time as often as the case shall happen, during the continuance of the term mentioned in any such indenture of apprenticeship.

If no Application be made, or the Justices should not think fit that the Apprenticeship should be continued, it shall be at an end.

IV. And be it further enacted, That in case no such application shall be made as aforesaid within three calendar months next after the death of such master or mistress, or in case such two justices to whom any such application as aforesaid shall have been made, shall not think fit that such apprenticeship should be continued, then the said apprenticeship shall be determined, and the indenture of apprenticeship and covenants therein contained shall be at an end, in like manner as they would have been at the expiration of the term therein mentioned.

Act to extend to such Parish Apprentices only as shall be living with the Master.

V. Provided always, and be it enacted, That nothing herein-before contained shall extend or be construed to extend to any parish apprentice, but to such only as shall be living with and shall make part of the family, or shall be in the actual employment of such original master or mistress, or of any subsequent master or mistress appointed under and by virtue of the several provisions of this Act at the time of the death of any such masters or mistresses respectively. (2)

Justices may order the necessary Sums for Maintenance and Cloathing of Apprentices to be levied by Distress.

VI. 'And whereas much difficulty and delay must necessarily happen 'in bringing an action upon the covenant for maintenance before men-'tioned contained in any such indenture of parish apprenticeship;' Be it enacted, That in case any such original master or mistress as aforesaid, or any master or mistress appointed under or by virtue of this Act, shall, during the term of any such parish apprenticeship as aforesaid, or if the executors or administrators of such masters or mistresses, any or either of them, having assets, shall during such three calendar months as aforesaid, refuse or neglect to maintain and provide for any such apprentice according to the terms of such covenant, it shall and may be lawful for any two justices of the peace of the county city town riding division or place in which the parish or place shall lie, to which such apprentice shall belong,

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(2) Since the Statute 32 Geo. III. c. 57, for the regulation of parish apprentices; which recites "that on the death of the master during the term of such apprenticeship, the agreement for service on the part of the apprentice is at an end;" but the covenant for maintenance on the part of the master still continues as far as his assets extend, or doubts have arisen with respect thereto, &c. and then enacts that such covenants for maintenance of parish apprentices with whom no more than 5*l.* shall be given shall not continue in force longer than for three calendar months after the death of the master, &c. during which three months the apprentice shall continue to serve the executors, &c. or their appointee: and that within the three months two justices of the peace, on application of the widow or certain relatives of the master, may by indorsement on the indenture, &c. direct such apprentice to serve out his time with the applicant; such applicant having lived with and been part of the family of the master, &c. at his death; but otherwise that such apprenticeship shall be determined; and then it provides (s. 5.) "that nothing therein-before contained shall extend to any parish apprentice, but to such only as shall be living with and make part of the family or be in the actual employment of the original master, &c. or of any subsequent master, &c. appointed under the provisions of the Act at the time of the death of such master, &c.: Held: that a parish apprentice who was not living, at the time of his mistress's death, with her appointee under the provisions of the Act, though living with her son by her individual consent, could not gain a settlement in another parish by serving another mistress with the consent of the son and assignee of the original mistress, given after the death of the original mistress; the contract of service being declared by the recital of the Act to be at an end upon the death of the original mistress, unless continued in the manner described in the second, third, and fourth sections of the Act; to which sections the proviso in the fifth section seems properly to apply. Rex v. Sheepshead. (Julall.) 15 E. R. 59.

on complaint of such apprentice, or of the churchwardens and overseers of the poor of such parish or place, by warrant under their hands and seals to levy by distress and sale of the personal estate and effects or assets of such master or mistress respectively such sum or sums of money as shall be necessary for the maintenance and cloathing of such apprentice, and as shall also be necessary to reimburse to the churchwardens and overseers of the poor of such parish or place any sum or sums of money that shall have been reasonably expended by them for that purpose.

VII. 'And whereas it frequently happens that persons are compellable 'under and by virtue of the said Act of the ninth and tenth years of 'King *William* to take a greater number of parish apprentices than it is 'convenient for them to maintain or employ in their own families, and 'they are therefore forced to place out or assign over such apprentices 'to other persons; and it is proper that such assignment should be le-'gally made under the inspection and controul of the magistrates as 'well for the benefit of the apprentice as that the original master may 'be discharged from his covenants in respect of such apprentice; and it 'is fit that the person to whom such assignment shall be made and also 'the apprentice should be made subject to the ordinary jurisdiction of 'justices of the peace with respect to masters and parish apprentices;' Be it enacted, That it shall and may be lawful for any master or mistress of any such parish apprentice as aforesaid, by indorsement on the indenture of apprenticeship or by other instrument in writing, by and with the consent of two justices of the peace of the county city town riding division or place where such master or mistress shall dwell, testified by such justices under their hands, to assign such apprentice to any person who is willing to take such apprentice for the residue of the term mentioned in such indenture of apprenticeship: Provided always, That such person to whom such apprentice is intended to be assigned shall at the same time by indorsement on the counterpart of such indenture or by writing under his or her hand, stating the said indenture of apprenticeship and the indorsement and consent aforesaid, declare his or her acceptance of such apprentice and acknowledge himself herself his or her executors and administrators to be bound by the agreements and covenants mentioned in the said indenture on the part of the master or mistress of such apprentice to be done and performed; which indorsement or instrument may be in the forms or to the effect mentioned in the schedule hereunto annexed, marked with the letters D. and E.; and in such case such apprentice shall be deemed and taken to be the apprentice of such subsequent master or mistress to whom such assignment shall be made to all intents and purposes whatsoever, and so from time to time as often as it shall be necessary or convenient for any such subsequent master or mistress to part with any such apprentice; and all justices of the peace shall have the like power and authority in the several cases last mentioned with respect as well to the subsequent master or mistress masters or mistresses as to the apprentice, as such justices shall then have by any law for the better regulation of parish apprentices.

Masters may assign over Apprentices with the Consent of two Justices, &c

VIII. 'And whereas no express provision has been made for the dis-'charging of any such parish apprentice from a master or mistress who is 'become insolvent or is so far reduced in his or her circumstances as to 'be unable to employ or maintain such apprentice;' Be it enacted, That it shall and may be lawful for two justices of the peace of the county city town riding division or place where any such master or mistress shall live, on the application of such master or mistress requesting that any such apprentice may be discharged for the reasons aforesaid, to enquire into the matter of such allegations and to discharge any such apprentice from his apprenticeship in case the said two justices shall find such allegations to be true.

Justices may discharge Apprentices whose Masters cannot employ or maintain them.

IX. Provided always and be it enacted, That nothing herein-before contained shall extend or be construed to extend to the indenture made on the binding of any apprentice by the churchwardens or overseers of the poor of any parish or place or the major part of them, under and by virtue of the powers given to them by the statute made in the forty-third

Not to extend to Apprentices with whom more than Five Pounds shall be given.

No. X.
32 Geo. III. c. 57.

year of the reign of Queen *Elizabeth* in the case of any such binding where a larger sum than five pounds shall be given, but that such binding shall be subject and liable to the like rules and regulations as they would have been subject and liable to in case this Act had not been made.

No Indorsement on Parish Indentures to be liable to Stamp Duty, and no other Instruments to be charged higher than the Duty on Parish Indentures.

X. Provided also, and be it enacted, That no indorsement or indorsements on any parish indentures of apprenticeship herein-before mentioned made or executed in pursuance of this Act shall be charged or chargeable with any duty imposed upon stamped vellum parchment and paper, but the same shall be and are hereby declared to be exempted therefrom, and that no other instrument or instruments in writing herein-before mentioned shall be charged or chargeable with any higher duty than with the duty imposed or to be imposed on parish indentures of apprenticeship.

20 Geo. II. c. 19. recited,

XI. 'And whereas by an Act passed in the twentieth year of the 'reign of King *George* the Second, intituled, *An Act for the better adjusting and more easy Recovery of the Wages of certain Servants, and for the better Regulation of such Servants and of certain Apprentices,* 'it is enacted, That it shall and may be lawful to and for any two or 'more justices upon any complaint or application by any apprentice 'put out by the parish touching or concerning any misusage, refusal of 'necessary provisions, cruelty or other ill treatment of or towards such 'apprentice by his or her master or mistress and due proof thereof, to 'discharge such apprentice from his or her apprenticeship: And whereas 'instances of such ill treatment frequently occur, and it is fit that the expectation of such discharge should not operate as an inducement to 'such ill treatment:' Be it enacted, That in every case where any parish apprentice whatsoever shall be discharged from his apprenticeship by two justices under and by virtue of the said last-mentioned Act, it shall and may be lawful for such two justices to order such master or mistress to deliver up to such apprentice his or her clothes and wearing apparel, and also to pay to such churchwardens or overseers of the poor of the parish or place to which such apprentice shall belong some or one of them a sum not exceeding ten pounds, to be applied by them some or one of them, under the order of such justices, for the again placing and binding out such apprentice so discharged as aforesaid or otherwise for his or her benefit as to such justices shall seem meet; and also to pay a sum not exceeding five pounds in case such master or mistress shall refuse to deliver up such clothes and wearing apparel; and in case such master or mistress shall refuse to pay the sum so ordered by the said justices to be paid as aforesaid or either of them or any part thereof, it shall and may be lawful for such two justices by warrant under their hands and seals to levy the same by distress and sale of the goods and chattels of such master or mistress together with the reasonable expences of such distress, and also, that it shall and may be lawful for such two justices if they shall so think fit to compel such churchwardens and overseers of the poor some or one of them to enter into a recognisance for the effectual prosecution by indictment of such master or mistress for such ill treatment of any such apprentice so discharged as aforesaid, and also to order that the costs and expences of such prosecution shall be paid and discharged or reimbursed to such person or persons entering into such recognisance as aforesaid, one moiety thereof out of the poor rates of the parish or place to which such apprentice shall belong and the other moiety thereof out of the common stock of the county in which such parish or place shall lie; and in case the churchwardens and overseers of the poor of such parish or place for the time being shall refuse to pay such their moiety as aforesaid, it shall and may be lawful for such two justices by warrant under their hands and seals to levy the same by distress and sale of the goods and chattels of such churchwardens and overseers of the poor any or either of them together with the reasonable expences of such distress.

Justices discharging any Apprentice under the last recited Act may order his Clothes to be delivered up, and a sum not exceeding 10*l.* to be paid the Parish Officers for placing him out again, &c.

and may compel the Parish Officers to enter into Recognisance to prosecute Masters for ill Treatment of Apprentices, &c.

XII. 'And whereas it is not expedient that such master or mistress 'should be again entrusted with the care of another parish ap-

No. X.
32 Geo. III. c. 57.

'prentice;' be it enacted, That in every case where any parish apprentice shall have been so discharged from any master or mistress as aforesaid under and by virtue of the said last-mentioned Act, and such master and mistress shall have been convicted of such offence in consequence of such prosecution by indictment as aforesaid, or shall have been found guilty thereof in any action brought at the suit of the party injured, it shall not be lawful for the churchwardens and overseers of the poor of any parish or place, or the major part of them, to bind any other apprentice upon such person; but that whenever such person ought or would be compellable to take a parish apprentice, it shall and may be lawful for any two justices of the peace of the county city town riding division or place where such person shall reside, upon application made to them by the churchwardens and overseers of the poor of such parish or place, to order and direct that such person shall pay (3) into the hands of such churchwardens and overseers of the poor, some or one of them, a sum not exceeding the sum of ten pounds nor less than five pounds, for the purpose of binding out the child (intended to be bound) an apprentice, with the approbation of such two justices; and in case such person shall refuse to pay such sum as aforesaid, then that it shall and may be lawful for such two justices by warrant under their hands and seals to levy the same by distress and sale of the goods and chattels of such person, together with the reasonable expences of such distress: Provided always, That it shall and may be lawful for such master or mistress as aforesaid, from whom any parish apprentice shall be discharged under and by virtue of the Act made in the twentieth year of the reign of King *George* the Second, to appeal against the order made for such discharge as aforesaid, and also against any such order made for his or her payment of any such sum or sums of money in consequence thereof as aforesaid, or for his or her payment of any sum or sums of money in lieu of a subsequent binding under and by virtue of the provisions of this Act, to the next general quarter sessions of the peace of the county city riding division or place where such orders, any or either of them, shall be made, and upon such appeal the said court of general quarter sessions shall finally determine the same, and in their discretion allow to all parties their reasonable costs; and no such distress for enforcing the payment of any such sum or sums of money as are last mentioned, shall be taken until after the general quarter session of the peace to be holden next after any such order as aforesaid shall be made, in case the person who is ordered to pay the same shall within seven days after notice given to him or her of such order being made give notice to such churchwardens and overseers of the poor, some or one of them, of such intended appeal; and in case such person shall fail to appear in support of his appeal at such general quarter session, then the sum of forty shillings shall be added to the expences of the distress before directed to be taken and levied accordingly.

Justices may order any Master convicted under the last recited Act, when liable to take a Parish Apprentice, to pay to the Parish Officers a Sum not exceeding 10*l.* nor less than 5*l.* for the purpose of binding out the Child, &c.

Masters may appeal to the Quarter Sessions, &c.

On Notice of such Appeal, no Distress to be made till after the Quarter Session.

40*s.* Penalty so failing to support Appeal.

XIII. 'And whereas by the said last-mentioned Act it is also enacted, 'That it shall and may be lawful to and for two justices upon application or complaint made upon oath by any master or mistress against 'any parish apprentice, touching or concerning any misdemeanor miscarriage or ill behaviour of such apprentice to hear and determine the 'same, and punish the offender in such manner as is therein mentioned, 'or otherwise to discharge such apprentice from his apprenticeship, and 'it is expedient to prevent the expectation of such discharge being an 'inducement to such ill behaviour on the part of the apprentice;' Be it

(3) A promissory note to the amount of the fair expences of a prosecution agreed to be given at the recommendation of the Court of Quarter Sessions by a defendant who stood convicted before them a misdemeanour, in ill-treating his parish apprentice, for which the parish officers had been bound over by recognisance to prosecute him under the Stat. 32 Geo. III. c. 57; and the giving of which security was considered by the Court in abatement of the period of imprisonment to which he would otherwise have been sentenced, is legal and may be enforced by action. Beeley *v.* Wingfield, 11 East. R. 46.

No. X.
32 Geo. III. c. 57.

Apprentices discharged for ill Behaviour may be sent to the House of Correction.

Parties aggrieved may appeal to the Quarter Sessions.

enacted, That in all cases where any parish apprentice shall be discharged by two justices under and by virtue of the said last-mentioned Act, from his or her apprenticeship, on account of any misdemeanor miscarriage or ill behaviour on the part of such apprentice, that it shall and may be lawful for such two justices if they think proper by warrant under their hands and seals to punish such offender by commitment to the house of correction, there to remain and be corrected and kept to hard labour for a reasonable time, not exceeding three calendar months, as to such justices shall seem meet.

XIV. And be it further enacted, That if any person shall be aggrieved by any matter or thing done or omitted to be done by any churchwarden or overseer of the poor, or by any of his Majesty's justices of the peace, or by any other person or persons whomsoever under and by virtue of this Act, besides such matters or things for which an appeal is hereinbefore specially given, it shall and may be lawful for such person or persons to appeal to the next general quarter sessions of the peace, where the same shall be heard and finally determined; and such court may award reasonable costs and expences to either party before them.

Schedule referred to in this Act.

A.

FORM of Proviso to be added to the Covenant for Maintenance.

PROVIDED always, that the said last-mentioned covenant on the part of the said *F. M.* [*the Master*] his executors and administrators, to be done and performed, shall continue and be in force for no longer time than for three calendar months next after the death of the said *F. M.* in case he the said *F. M.* shall happen to die during the continuance of such apprenticeship, according to the provisions of an Act passed in the thirty-second year of the reign of King *George* the Third, intituled [*Here set forth the Title of the Act.*]

B.

FORM of the Order of two Justices, directing a Parish Apprentice to continue with the Widow [or as the case may be] *of his deceased Master, by Indorsement on the Indenture, or Counterpart thereof; on which Binding no more was paid than the Sum for that Purpose mentioned in this Act.*

County of } WHEREAS *F. M.* [*the Master*] within named, late of the parish of in the said county, died on the day of being within three calendar months now last past; we, two of his Majesty's Justices of the Peace for the county aforesaid, whose names are hereunto subscribed, on the application and at the request of *A. M.* widow [*or as the case may be*] of the said *F. M.* living with and being part of the family of the said *F. M.* at the time of his death, do hereby order and direct that *A. P.* the apprentice within named, who was in the service and actual employment of the said *F. M.* at the time of his death, shall serve the said *A. M.* as such apprentice for the residue of the term of such apprenticeship within mentioned, according to the provisions of an Act passed in the thirty-second year of the reign of King *George* the Third, intituled *An Act for the further Regulation of Parish Apprentices.* Witness our hands this day of

I, the above-named *A. M.* do hereby declare, that the above order is made at my request, and that I do accept the said *A. P.* as my apprentice, according to the terms and covenants contained in the said indenture, and according to the provisions of the said Act. Witness my hand the day and year above written.

C.

FORM of the like Order by a separate Instrument.

County of } WHEREAS it appears unto us, two of his Majesty's Justices of the Peace for the said County, That *A. P.*

[*the Apprentice*] was bound an Apprentice by the Churchwardens and Overseers of the Poor of , to *F. M.* [*the Master*] late of the said Parish, and that the said *F. M.* died on day of , being within three calendar months now last past: Now we, the said two Justices, on the application and at the request, *&c.* [*then to the end as before, mutatis mutandis.*]

D.

FORM of the Assignment of such a Parish Apprentice, with the Consent of two Justices, by Indorsement on the Indenture or Counterpart.

County of } BE it Remembered, that the within-named *F. M.* [*the Master*] by and with the consent and approbation of *I. P.* and *K. P.* two of his Majesty's Justices of the Peace for the said County, whose Names are subscribed to the consent hereunder written, doth hereby assign *A. P.* the Apprentice within named, unto *N. M.* [*the new Master*] to serve him during the residue of the term within mentioned; and that he the said *N. M.* doth hereby agree to accept and take the said *A. P.* as an Apprentice for the residue of the said term, and doth hereby acknowledge himself his executors and administrators, to be bound by the agreements and covenants within mentioned on the part of the said *F. M.* to be done and performed according to the true intent and meaning thereof, and pursuant to the provisions of an Act passed in the thirty-second year of the reign of King *George* the Third, intituled, *An Act for the further Regulation of Parish Apprentices.* In witness whereof we, the said *F. M.* and *N. M.* have hereunto set our hands this day of

We, two of his Majesty's Justices of the Peace above-mentioned, do consent thereto. Witness our hands, this day of

I. P.
K. P.

E.

FORM of the like Assignment by a separate Instrument.

County of } WHEREAS it appears unto us, *I. P.* and *K. P.* two of his Majesty's Justices of the Peace for the said County, whose Names are subscribed to the consent hereunder written, that *A. P.* was bound an Apprentice by the Churchwardens and Overseers of the Poor of the Parish of , to *F. M.* of the said Parish, by Indenture bearing date on or about the day of until the said *A. P.* should attain his age of twenty-one years: Now be it remembered, that the said *F. M.* by and with the consent, *&c.* [*and so to the End as before, mutatis mutandis.*]

[No. XI.] 33 George III. c. 55.—An Act to authorize Justices of the Peace to impose Fines upon Constables, Overseers, and other Peace or Parish Officers, for Neglect of Duty, and on Masters of Apprentices for ill Usage of such their Apprentices; and also to make Provision for the Execution of Warrants of Distress granted by Magistrates.—[21*st June* 1793.]

'WHEREAS it is expedient to give further powers to Justices of the Peace to impose fines upon overseers of the poor, constables, and other peace and parish officers within their respective jurisdictions, for neglect of duty in such their respective offices, or for disobedience of the warrants or orders of such justices; and it is also expedient to empower justices to impose fines upon masters of ap-

No. XI.
33 Geo. III. c. 55.

'prentices for ill usage of such their apprentices, and also to make pro-'vision for the execution of warrants of distress granted by magistrates;' May it therefore please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same, That it shall and may be lawful for any two or more of his Majesty's justices of the peace assembled at any special or petty sessions of the peace, upon complaint being made upon oath before them, of any neglect of duty or of any disobedience of any lawful warrant or order of any justice or justices of the peace by any constable overseer of the poor or other peace or parish officer, or upon complaint made to such two or more justices upon oath, by or on the behalf of any apprentice to any trade or business whatsoever, whether bound apprentice by any parish or township or otherwise, provided that not more than the sum of ten pounds be paid upon the binding of such apprentice, against his or her master or mistress of any ill usage of such apprentice by such master or mistress (such constable overseer or other officer master or mistress having been duly summoned to appear and answer such charge or complaint,) to impose upon conviction any reasonable fine or fines not exceeding the sum of forty shillings, upon such constable overseer or other officer master or mistress respectively, as a punishment for such disobedience neglect of duty or ill usage, and by warrant under the hands and seals of any two or more of such justices assembled at any such special or petty sessions as aforesaid, to direct such fine or fines if not paid to be levied by distress and sale of the goods and chattels of the person or persons so offending, rendering the overplus (if any) after deducting the amount of such fine or fines and the charges of such distress and sale to such offender or offenders; and such fine or fines which may be imposed upon any such constable overseer or other officer as aforesaid, shall be applied and disposed of for the relief of the poor of the parish township or place where the offenders shall respectively reside, at the discretion of the justices imposing the same, and such fine or fines which may be imposed upon any such master or mistress shall at the discretion of the justices imposing the same be either so applied and disposed of as aforesaid, or be otherwise paid and applied to or for the use and benefit of such apprentice for or towards a recompence or compensation for the injury which may have been by him or her sustained by reason of such ill usage as aforesaid; and if any person shall be aggrieved by the imposition of such fine or fines as aforesaid, or by any order or warrant of distress for raising and levying the same, or by the judgment or determination of the said justices, or by any Act to be done in the execution of such warrant of distress, such person or persons so aggrieved shall and may appeal to the next general or quarter sessions of the peace to be held for the county riding or division within which such person shall reside, of which appeal ten days' notice at the least shall be given; and for want of such distress, such person or persons shall be committed to the House of Correction for any space of time not exceeding ten days.

Justices may impose Fines upon Constables, &c. for Neglect of Duty, and on Masters for ill Usage of pprentices.

Application of Fines.

Persons aggrieved may appeal to the Quarter Sessions.

For want of Distress, Offenders may be committed.

II. Provided always and be it further enacted, That no person acting under any such warrant of distress as aforesaid, shall be deemed a trespasser *ab initio*, by reason of any irregularity or informality in such warrant or in any proceedings thereon, but any person aggrieved by the issuing or execution of such warrant, may recover the special damages thereby by him or her sustained in an action of trespass, or on the case in any of his Majesty's Courts of Record.

No Persons to be deemed Trespassers on Account of Irregularity in Proceedings, &c.

III. 'And whereas warrants of distress granted by justices of the 'peace are in many instances ineffectual, by reason of the goods and 'chattels of the persons against whom such warrants are granted being 'out of the jurisdiction of the justice granting the same:' Be it therefore further enacted, That in all cases where any penalty forfeiture fine or other money may by the warrant of any justice or justices of the peace be directed to be levied by distress and sale of the goods and chattels of any person or persons if sufficient distress cannot be found within the

Where Distress cannot be found in the Jurisdiction of Justices granting Warrants, it may be levied in any other Place.

No. XI. 33 Geo. III. c. 55.

limits of the jurisdiction of the justice granting such warrant of distress on oath thereof made by one witness before any justice of the peace of any other county riding division city borough town corporate or place (which oath shall be by him certified by indorsement on such warrant) such penalty forfeiture fine or other money or so much thereof as may not have been before levied or paid shall and may by virtue of such warrant and indorsement be raised and levied by the person or persons to whom such warrant of distress shall have been originally directed, by distress and sale of the goods and chattels of such person or persons in such other county riding division city borough town corporate or place, and the money arising by such distress and sale shall be applied and disposed of for such purposes and in like manner as if sufficient goods and chattels of such person or persons had been found within the jurisdiction of the magistrate originally granting such warrant; and if no such distress can be found such offender or offenders shall and may be forthwith proceeded against according to law: Provided always that no justice who shall indorse any certificate upon or authorise the execution of any such warrant of distress which may not have been granted within his jurisdiction, shall be answerable or accountable for any irregularity which may have been committed or done in or about the obtaining or granting of such warrant of distress.

Justices authorizing the Execution of Warrants not granted within their Jurisdictions, not to be answerable for any Irregularity in obtaining them.

[No. 12.] 42 George III. c. 46.—An Act to require Overseers and Guardians of the Poor to keep a Register of the several Children who shall be bound or assigned by them as Apprentices; and to extend the Provisions of an Act passed in the Twentieth Year of the Reign of his present Majesty, to the binding of Apprentices by Houses of Industry, or Establishments for the Poor, which have been authorized so to do, by subsequent Acts.—[*7th May* 1802].

[20 G. 3. c. 36.]

42 Geo. III. c. 46.

43 Eliz. c. 2.

'WHEREAS by an Act passed in the forty-third year of the reign of Queen *Elizabeth*, intituled *An Act for the Relief of the Poor*, the overseers of the poor of every parish are enabled to bind out any poor children as apprentices, until every such poor male child shall attain the age of twenty-four years, and until every such female child shall attain the age of twenty-one years or the time of her marriage; and whereas it would tend to the benefit of the children so bound as apprentices, if the overseers of the poor were required to keep a register of all children who shall be so bound;' may it therefore please you Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same, That the overseers of the poor of every parish township or place appointed by virtue of the said recited Act, passed in the forty-third year of the reign of Queen *Elizabeth*, shall from and after the first day of *June*, and they are hereby required to provide and keep a book or books at the expence of the said parish township or place, and to enter or cause to be entered therein the name of every child who shall be bound out by them respectively as an apprentice, together with the several other particulars in manner and form required by this Act according to the schedule hereunto annexed; and every such entry when made in the said register shall be produced and laid before the two justices of the peace who shall signify their assent to the indenture of apprenticeship of every such child, at the time when such indenture shall be laid before such justices for their assent as required by the said recited Act; and each entry in the said register shall if approved of by such justices, be signed by them according to the form marked in the schedule hereunto annexed.

Overseers of the Poor shall keep a Book for entering the Name of every Apprentice bound out by them, and each Entry shall be signed by two Justices, according to the Form in the Schedule.

No. XII.

42 Geo. III. c. 46.

Penalty for not providing such Book, or neglecting to make such Entries therein, &c. not exceeding 5*l.* leviable by Distress, &c.

II. And be it further enacted, That if any overseer or overseers of the poor shall refuse or neglect to provide and keep such book or books or to make such entry therein as before directed, or shall destroy or permit suffer or cause to be destroyed any such book or books, or shall wilfully and knowingly obliterate deface or alter any such entry so that the same shall not be a true entry of the several particulars hereby required, or shall wilfully and knowingly make a false entry therein or shall so permit suffer or cause the same to be done, or shall not produce or lay such book or books before such justices as aforesaid for their signatures, or shall not deliver or tender or cause to be delivered or tendered such book or books to his her or their successor or successors in office within fourteen days after the appointment of such successor or successors, or if any successor or successors shall refuse or neglect to receive the same when offered or tendered to him or them by his or their predecessor or predecessors in office, then and in every such case every such person so offending shall for every such offence, on being convicted thereof before any two justices of the peace for the county city or place where the offence shall be committed, on the oath of any credible witness (which oath such justices are hereby empowered and required to administer,) or on the voluntary confession of the party or parties, forfeit and pay a sum not exceeding five pounds, to be recovered by distress and sale of the goods and chattels of the offender or offenders by warrant under the hands and seals of the justices before whom the offender or offenders shall be convicted, and the overplus (if any) of the money arising by such distress and sale shall be returned upon demand to the owner or owners of such goods and chattels after deducting the costs and charges of making keeping and selling such distress; and such penalties and forfeitures shall be applied for the use of the poor of the parish township or place for which such offender or offenders shall be overseer or overseers; and in case sufficient distress cannot be found or such penalties and forfeitures shall not be paid forthwith, it shall and may be lawful to and for such justices by warrant under their hands and seals and they are hereby required to commit every such offender to the common gaol or house of correction of the county city or place where the offence shall be committed, there to remain without bail or mainprize for any time not exceeding one calendar month unless such penalties and forfeitures shall be sooner paid and satisfied.

Books may be inspected, and shall be deemed Evidence.

III. And be it further enacted, That it shall and may be lawful for any person or persons at all seasonable hours to inspect such book or books in the hands of the said overseer or overseers, and to take a copy of such entry in such book or books upon payment of the sum of sixpence, except in case of any of his Majesty's justices of the peace acting in and for the said county who shall be entitled at all such times to inspect such book *gratis;* and every such book shall be and be deemed to be sufficient evidence in all courts of law whatsoever in proof of the existence of such indentures, and also of the several particulars specified in the said register respecting such indentures, in case it shall be proved to the satisfaction of such court that the said indentures are lost or have been destroyed.

IV. And be it further enacted, That the justices of the peace before whom any person shall be convicted by virtue of this Act shall and may cause the conviction to be drawn up in following form; *(videlicet),*

Form of Conviction.

'BE it Remembered, That on the day of in the year of our Lord, '*A. B.* is convicted before us two of his Majesty's Justices of the Peace 'for the [*specifying the Offence and the Time and 'Place when and where committed, as the case may be*] contrary to an Act 'made in the Forty-second year of the reign of King *George* the Third, 'intituled [*here set forth the Title of this Act.*] Given under our hands 'and seals the day and year above mentioned.'

When Apprentices shall be assigned under 32 G. 3. c. 57.

V. And be it further enacted, That whenever any such apprentice shall be assigned or bound over to any other master or mistress by virtue a like Entry thereof shall be made in the said Book.

No. XII.
42 Geo. III. c. 46.

of an Act passed in the thirty-second year of the reign of his present Majesty, intituled *An Act for the further Regulation of Parish Apprentices*, then and in every such case the overseer or overseers party or parties to the assignment of such apprentice shall insert the name and residence of the master or mistress to whom such apprentice shall be assigned or bound over as aforesaid, together with the other particulars, in the book or books herein directed to be provided and kept by such overseer or overseers; and for non-performance thereof, every such overseer or overseers shall be liable to the pains penalties and forfeitures incurred by this Act, in like manner as if such apprentice had been originally bound to such master or mistress.

This Act extended to Persons having like Powers as Overseers.

VI. And whereas by different Acts of Parliament the like powers are given to certain persons therein named for binding out parish apprentices as are given to the overseers of the poor; Be it therefore enacted, That such several persons shall be subject to the like pains penalties and forfeitures for non-compliance with the several provisions and directions in this Act contained for registering any parish apprentice bound out or assigned by them respectively, to which overseers of the poor are subject and liable by virtue of this Act for non-compliance with such provisions and directions.

Appeal may be made to Quarter Sessions.

VII. And be it further enacted, That if any person or persons shall think himself herself or themselves aggrieved by any thing done in pursuance of this Act, it shall and may be lawful to and for such person or persons to appeal to the justices at the first general quarter sessions of the peace to be holden for the county or place where the cause of appeal shall arise, within four calendar months next after the cause of appeal shall have arisen, on giving to the person or persons appealed against ten days notice of such appeal and of the matter thereof; and the justices at such sessions are hereby authorised and required to hear and determine the matter of such appeal in a summary way, and to grant such costs and expences to either party as to them shall seem reasonable.

The Powers of 20 G. 3. c. 36. shall extend to poor Children bound Apprentices under the Authority of any subsequent Act.

VIII. 'And whereas by an Act passed in the twentieth year of his 'present Majesty, the powers which were given by several preceding Acts 'of Parliament to bind poor children apprentices are by the said Act of 'the twentieth year of his Majesty extended as to the power of com- 'pelling persons to receive and provide for such poor children as should 'be appointed to be bound apprentices to them in pursuance of the said 'prior Acts: And whereas since that time several Acts have passed by 'which houses of industry or establishments for the poor have been 'authorised to bind apprentices; and doubts have arisen whether the 'powers and provisions in the said Act of the twentieth of his Majesty 'will extend to the case of apprentices so bound out under the authority 'of such subsequent Acts;' Be it therefore enacted by the authority aforesaid, That the several powers and provisions in the said recited Act of the twentieth of his Majesty contained shall extend and are hereby extended and shall have full effect to poor children bound apprentices under the authority of any Acts passed since the said recited Act, in the same manner as if such Acts had passed prior to the said recited Act of the twentieth of his Majesty.

FORM OF THE REGISTER.

Number.	Date of Indenture	Name of the Apprentice.	Sex	Age.	His or her Parents' Names	Their Residence.	Name of Persons to whom bound or assigned, as the Case may be	His or her Trade	His or her Residence.	Term of the Apprenticeship or Assignment.	Apprentice or Assignment Fee.	Overseers Parties to the Indenture or Assignment.	Magistrates assenting.
													(to be signed by themselves.)

[No. XIII.] 42 Geo. III. c. 73.—An Act for the Preservation of the Health and Morals of Apprentices and others, employed in Cotton and other Mills, and Cotton and other Factories.

No. XIII. 42 Geo. III. c. 73.

[No. XIV.] 51 Geo. III. c. 80.—An Act to render valid certain Indentures for the Binding of Parish Apprentices.—[15*th June* 1811.]

'WHEREAS by an Act passed in the forty-third year of the reign of her late Majesty Queen *Elizabeth*, intituled *An Act for the Relief of the Poor*, it is enacted, That the churchwardens of every parish, and four three or two substantial householders there, as shall be thought meet, having respect to the proportion and greatness of the same parish and parishes, to be nominated yearly in *Easter* week, or within one month after *Easter*, in the manner therein directed, shall be overseers of the poor of the same parish, and that it shall be lawful for the said churchwardens and overseers, or the greater part of them by the assent of two justices of the peace, to bind the children of such parents, as shall not by the said churchwardens and overseers or the greater part of them be thought able to maintain their children, to be apprentices: And whereas in divers small parishes two persons only have been annually appointed to act in the capacity of churchwardens as well as overseers of the poor: And whereas divers indentures for the binding of parish apprentices and certificates of the settlements of poor persons have been executed and signed by such two persons, purporting to be the churchwardens and overseers of such parishes; but, by reason that the said indentures and certificates have not been signed by distinct persons as churchwardens and other distinct persons as overseers, such indentures and certificates have been or may be deemed to be void:' Be it therefore enacted, by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That all indentures for the binding of parish apprentices, and all certificates of the settlements of poor persons, which have been heretofore executed and signed by two persons only, acting or purporting to act in the capacity of churchwardens as well as of overseers of the poor, and also all such indentures and certificates as shall hereafter be so signed, shall be considered as good valid and effectual as if the same had been executed and signed by distinct persons as churchwardens and distinct persons as overseers of the poor according to the said recited Act; (1.) any thing therein or in any other Act contained to the contrary thereof notwithstanding.

51 Geo. III. c. 80.
43 Eliz. c. 2. § 1.
§ 5.
Indentures and Certificates heretofore signed by two Persons only, acting as Churchwardens, &c. valid.

II. Provided always, That nothing in this Act contained shall extend to do away or alter any decision which may have taken place in any Court of Law, respecting the binding of any parish apprentice, or the settlement of any poor person before the passing of this Act.

Prior Decisions.

(1.) The statute extends to parishes where there are three officers only, one of whom acts as churchwarden as well as overseer, and therefore an indenture in such a case signed by two parish officers, one of whom acted in a double capacity, was held to be valid. Rex *v.* St. Margaret's Leicester, (Inhab.) 2 B. & A. 200.

[No. XIV. *a.*] 53 Geo. III. c. 40.—An Act to repeal so much of several Acts, passed in *England* and *Scotland* respectively, as empowers Justices of the Peace to rate Wages, or set Prices of Work, for Artificers, Labourers, or Craftsmen.—[15*th April* 1813.]

WHEREAS an Act passed in the fifth year of the reign of her late Majesty Queen *Elizabeth*, intituled *An Act containing divers Orders*

53 Geo. III. c. 40.
5 Eliz. c. 4.

No. XIV. *a.* 53 Geo. III. c. 40.

for Artificers Labourers Servants of Husbandry or Apprentices: And whereas another Act passed in the first year of the reign of his late Majesty King *James* the First, intituled *An Act made for the Explanation of the Statute made in the Fifth Year of the late Queen* Elizabeth's *Reign, concerning Labourers*: And whereas an Act passed in *Scotland* in the twenty-second Parliament of his Majesty King *James* the First in England and the sixth of *Scotland*, intituled *Anent the Justices for keeping his Majesty's Peace, and their Constables*: And whereas another Act passed in *Scotland* in the first Parliament of his Majesty King *Charles* the Second, intituled *Commission and Instruction to the Justices of the Peace and Constables*: And whereas it is expedient that the powers given by the said Acts and by various other Acts passed in the Parliaments of *Scotland* to justices of the peace and magistrates of cities and boroughs to rate wages or fix prices for work for artificers labourers and craftsmen should be repealed: May it therefore please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That so much of the said recited Acts and of each of them or of any other Act of Parliament in force in *Scotland* as authorises and empowers any justices of the peace or magistrates of cities and burghs to rate wages or fix prices of work for artificers labourers and craftsmen shall be and the same is hereby repealed; and all orders heretofore made by any justice or justices of the peace or magistrates in *England* or *Scotland* respectively under the authority of the said recited Acts or any or either of them, for or in relation to the rating any wages or settling or fixing any prices of work to be done or performed by any artificers labourers or craftsmen or servants, shall be and the same are hereby declared to be void and of none effect; any thing in the said Acts or any or either of them to the contrary notwithstanding.

1 Jac. 1. c. 6. Scotch Acts, 22d Parliament, Jac. 1. 1st Parliament, Car. 2.

Recited Acts empowering Magistrates to fix Wages repealed; and all Orders made by Magistrates under such Acts repealed.

[No. XIV. *b.*] 54 Geo. III. c. 96.—An Act to amend an Act, passed in the Fifth Year of Queen *Elizabeth*, intituled *An Act containing divers Orders for Artificers, Labourers, Servants of Husbandry, and Apprentices.*—[18*th July* 1814.]

55 Geo. III. c. 96.

5 Eliz. c. 4. Reciting that Persons should not exercise any Art except they had served an Apprenticeship of Seven Years, &c.

WHEREAS by an Act passed in the fifth year of the reign of her late Majesty Queen *Elizabeth*, intituled *An Act containing divers Orders for Artificers Labourers Servants of Husbandry and Apprentices*, it was enacted, That from and after the first day of *May* then next coming it should not be lawful to any person or persons, other than such as did then lawfully use or exercise any art mystery or manual occupation, to set up occupy use or exercise any craft mystery or occupation then used or occupied within the realm of *England* or *Wales*, except he shall have been brought up therein seven years at least as an apprentice; nor to set any person on work in such mystery art or occupation being not a workman at that day, except he shall have been apprentice as aforesaid, or else having served as an apprentice as aforesaid shall become a journeyman or hired by the year, upon pain that every person willingly offending or doing the contrary shall forfeit and lose for every default forty shillings for every month: And whereas it is expedient that so much of the said Act should be repealed: Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That so much of the said recited Act shall be and the same is hereby repealed and declared to be null and void to all intents and purposes whatsoever.

So much of the recited Act shall be repealed.

II. And whereas by the said statute divers rules and regulations were enacted respecting the qualifications of persons entitled to take and become apprentices and the term of years for which such apprentices should be bound, and as to the mode of binding such apprentices; and it was also

Other Part of the Act respecting Apprentices repealed.

enacted by the said statute, That all indentures covenants promises and bargains of and for the having taking or keeping of any apprentice otherwise thereafter to be made or taken than is by the said statute limited ordained and appointed should be clearly void in the law to all intents and purposes: and that every person that should from thenceforth take or newly retain any apprentice contrary to the tenor and true meaning of the said Act should forfeit and lose for every apprentice so by him taken the sum of ten pounds: And whereas it is expedient that so much of the said recited Act should be repealed; Be it therefore enacted, That so much of the said recited Act shall be and the same is hereby repealed; and that it shall and may be lawful for any person to take or retain or become an apprentice, though not according to the provisions of the said Act; and that indentures deeds and agreements in writing entered into for that purpose, which would be otherwise valid and effectual, shall be valid and effectual in law, the repeal of so much of the said Act as is herein last above recited notwithstanding.

No. XIV. b. 54 Geo. III. c. 96.

III. And be it further enacted, That any justice or justices of the peace may hear and determine any complaints that may arise respecting any apprenticeships in like manner as if they had been made under the Act hereby in part repealed.

Justices may determine Complaints as heretofore.

IV. Provided always, and be it further enacted, That this Act or any thing herein contained shall not extend or be construed to extend to defeat alter or prejudice the custom and order of the City of *London* concerning apprentices, or the ancient custom usages privileges or franchises of the said city, or of any other city town corporation or company lawfully constituted or the citizens and freemen thereof; or any bye law or regulation of any corporation or company lawfully constituted.

Customs of London, &c. in respect to Apprentices not to be affected.

[No. XV.] 54 Geo. III. c. 107.—An Act to render valid certain Indentures for the binding of Parish Apprentices, and Certificates of the Settlement of poor Persons.—[23*d July* 1814.]

WHEREAS by an Act passed in the forty-third year of her late Majesty Queen *Elizabeth*, intituled *An Act for the Relief of the Poor*, it is enacted, that it shall be lawful for the churchwardens and overseers of the poor of any parish or the greater part of them, by the assent of two justices of the peace, to bind the children of such parents as shall not (by the said churchwardens and overseers or the greater part of them) be thought able to maintain their children to be apprentices: And whereas by an Act passed in the eighth and ninth year of his late Majesty King *William* the Third, intituled *An Act for supplying some Defects in the Laws for the Relief of the Poor of this Kingdom*, it is enacted, That persons coming to inhabit in any parish township or place shall bring with them a certificate under the hands and seals of the churchwardens and overseers of the poor or the major part of them of some other parish township or place thereby owning and acknowledging the person or persons mentioned in the said certificate to be an inhabitant or inhabitants legally settled in that parish township or place: And whereas divers parishes contain within themselves several townships hamlets or chapelries, each of which separately maintains its own poor: And whereas in such parishes the churchwardens are for the most part sworn into their offices as churchwardens of the whole parish, although in truth and in fact they act as churchwardens of the separate townships hamlets or chapelries therein contained: And whereas divers indentures for the binding of parish apprentices and certificates of the settlements of poor persons have heretofore been signed and executed by a person or persons styling himself or themselves and stated in such indentures and certificates to be churchwardens or churchwardens chapelwarden or chapelwardens of the township hamlet or chapelry binding such poor apprentices or granting such certificate: And whereas such person or persons have not been sworn into the office of churchwarden or chapelwardens of

54 Geo. III. c. 107.
43 Eliz. c. 2.
8 & 9 W. 3. c. 30.

No. XV.
54 Geo. III. c. 107.

such township hamlet or chapelry, but of churchwarden of the parish wherein such township hamlet or chapelry is contained: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That all indentures for the binding of poor apprentices and all certificates of the settlements of poor persons which have been heretofore signed and executed or which shall hereafter be signed and executed by a person or persons who at the time of his or their signing and executing such indenture or certificate of settlement acted as churchwarden or churchwardens chapelwarden or chapelwardens of the township hamlet or chapelry, binding such poor apprentice or granting such certificate of settlement, shall be deemed and taken to be as good valid and effectual as if the same had been signed and executed by a person or persons actually sworn into the office of churchwarden or chapelwarden of such township hamlet or chapelry: Provided always, that such person or persons shall have been duly sworn into the office of churchwarden of the parish wherein the township hamlet or chapelry binding such poor apprentice or granting such certificate be contained, or into the office of churchwarden or chapelwarden of such township hamlet or chapelry.

Indentures and Certificates of Settlement made valid, although the Churchwardens, &c. were not sworn in.

II. And be it further enacted, That all indentures for the binding of poor apprentices and all certificates of the settlement of poor persons which shall have been heretofore signed and executed or which may hereafter be signed and executed by the overseers of the poor of any township hamlet chapelry or place, and the churchwarden or churchwardens chapelwarden or chapelwardens acting for or appointed in respect of such township hamlet chapelry or place or the major part of them, shall be deemed and taken to be as good valid and effectual as if the said indentures and certificates had been signed and executed by such overseers and the churchwardens of the parish wherein such township hamlet chapelry or place is situate or the major part of them.

Such Indentures and Certificates to be valid if executed by the Overseers of the Poor of any Township, &c.

III. Provided always, and be it further enacted, That nothing herein contained shall be construed to alter impeach or affect the settlement of any person for whose removal any order of justices shall have been duly made before the passing of this Act.

Not to affect Settlements.

[No. XVI.] 56 Geo. III. c. 139.—An Act to regulate the binding of Parish Apprentices.—[2*d July* 1816.]

56 Geo. III. c. 139.

WHEREAS many grievances have arisen from the binding of poor children as apprentices by parish officers to improper persons and to persons residing at a distance from the parishes to which such poor children belong, whereby the said parish officers and the parents of such children are deprived of the opportunity of knowing the manner in which such children are treated, and the parents and children have in many instances become estranged from each other; and also from the permission given to apprentices by the persons to whom such apprentices have been bound to serve others without a formal assignment, whereby the discretion to be exercised by magistrates in placing out apprentices to suitable persons is frequently rendered of no avail; For remedy whereof be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the first day of *October* in the year of our Lord one thousand eight hundred and sixteen, before any child shall be bound apprentice by the overseers of the poor of any parish township or place, such child shall be carried before two justices of the peace of the county riding division or place wherein such parish township or place shall be situate, who shall inquire into the propriety of binding such child apprentice to the person or persons to whom it shall be proposed by such overseers to bind such child; and such justices shall particularly inquire and consider whether such person or persons reside or have his her or their place or

How Parish Apprentices shall be bound.

places of business within a reasonable distance from the place to which such child shall belong, having regard to the means of communication between such places, or whether any circumstances shall make it fit in the judgment of such justices that such child should be placed apprentice at a greater distance; and if the father or mother of such child shall be living, and shall reside in or near the place to which such child shall belong, such justices shall (if they see fit) examine such father or mother or either of them, and shall particularly inquire as to the distance of the residence or place of business of the person or persons to whom it shall be proposed to place such child and the means of communication therewith; and such justices shall also inquire into the circumstances and character of such person or persons; and if such justices shall upon such examination and inquiry, think it proper that such child should be bound apprentice to such person or persons, such justices shall make an order declaring that such person or persons is or are fit person or persons to whom such child may be properly bound as apprentice, and shall thereupon order that the overseer or overseers of the place to which such child shall belong shall be at liberty to bind such child apprentice accordingly; which order shall be delivered to such overseer or overseers as the warrant for binding such child apprentice as aforesaid; and such order shall be referred to by the date thereof and the names of the said justices in the indenture of apprenticeship of such child; and after such order shall have been made, such justices shall sign their allowance of such indenture of apprenticeship, before the same shall be executed by any of the other parties thereto: Provided always, that no such child shall be bound apprentice to any person or persons residing or having any establishment in trade at which it is intended that such child shall be employed out of the same county, at a greater distance than forty miles from the parish or place to which such child shall belong, unless such child shall belong to some parish or place which shall be more than forty miles from the city of *London*, in which case it shall be lawful for the justices who shall authorise the apprenticing of such child to make a special order for that purpose, in which order such justices shall distinctly specify the grounds on which they shall think fit to allow of the apprenticing of such child to a person or persons residing or having an establishment in trade at a greater distance than forty miles from the parish or place to which such child shall belong.

Indenture to be allowed by Two Justices of the County into which Apprentice is to be bound, as well as by Two Justices of the County from which he is bound.

II. And be it further enacted, That in all cases where the residence or establishment of business of the person or persons to whom any child shall be bound shall be within a different county or jurisdiction of the peace from that within which the place by the officers whereof such child shall be bound shall be situated, and in all other cases where the justices of the peace for the district or place within which the place by the officers whereof such child shall be bound shall be situated, and who shall sign the allowance of the indenture by which such child shall be bound shall not have jurisdiction, every indenture by which such child shall be bound at any time after the said first day of *October* shall be allowed as well by two justices of the peace for the county or district within which the place by the officers of which such child shall be bound shall be situated, as by two justices of the peace for the county or district within which the place shall be situated wherein such child shall be intended to serve: Provided always, that no indenture shall be allowed by any justice of the peace for the county into which such child shall be bound, who shall be engaged in the same business employment or manufacture in which the person to whom such child shall be bound is engaged; and notice shall be given to the overseers of the poor of the parish or place in which such child shall be intended to serve an apprenticeship, before any justice of the peace for the county or district within which such parish or place shall be shall allow such indenture; and such notice shall be proved before such justice shall sign such indenture, unless one of such overseers shall attend such justice, and admit such notice.

The Allowance by County Magistrates to be valid in Towns and Places having exclusive Jurisdiction.

III. Provided always and it is hereby declared, That the allowance of

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56 Geo. III. c. 139.

two justices of the peace for the county within which the place in which such child shall be intended to serve an apprenticeship shall be situated shall be valid and effectual, although such place may be situated in a town or liberty within which any other justices of the peace may in other respects have an exclusive jurisdiction.

Distance to which Apprentices may be bound not to be limited to Cities which are Counties of themselves.

IV. And whereas there are several cities and boroughs which are counties of themselves, and several districts situated without the limits of the county to which such districts respectively belong; Be it enacted, That the distance to which parish apprentices may be bound shall not be construed to be limited to such cities and boroughs being counties, but shall extend to the county in which any such city and borough and any such district though belonging to another county shall be locally situated.

No Settlement shall be gained unless Directions complied with.

V. And be it further enacted, That no settlement shall be gained by any child who shall be bound by the officers of any parish township or place by reason of such apprenticeship, unless such order shall be made and such allowances of such indenture of apprenticeship shall be signed as herein-before directed.

Penalty on Overseers binding Apprentices contrary hereto.

VI. And be it enacted, That in case any overseer or overseers shall bind an apprentice to any person or persons without having obtained such order and such allowances as herein-before required, and in case any person or persons shall receive any such apprentice as so bound, without such order and allowances having been first obtained, the said overseer or overseers and the said person or persons shall each respectively forfeit the sum of ten pounds for each apprentice so bound, to be recovered as the penalties herein-after given are directed to be recovered.

Children not to be bound till they have attained Nine Years.

VII. And be it further enacted, That from and after the said first day of *October* it shall not be lawful for any parish officers to bind out any child as parish apprentice until such child shall have attained the age of nine years, any thing in any Act or Acts of Parliament to the contrary notwithstanding.

In Cases of Master's Removal, &c. how Apprentices shall be disposed of.

VIII. And be it further enacted, That if any person or persons to whom any child shall be bound apprentice by the overseers of the poor of any parish or place shall after the said first day of *October* remove his her or their residence or establishment of business out of the same county, or forty miles from the parish or place wherein the same was when such child was bound apprentice, such person or persons shall, at least fourteen days previous to such removal, give a written notice thereof to the churchwardens or overseers of the poor of the place where such apprentice shall then reside, unless such person or persons shall reside in such place under certificate; and in that case such persons shall give the like notice to the churchwardens or overseers of the poor of the place where such apprentice shall then be legally settled; and which churchwardens and overseers, and also the master or masters mistress or mistresses of such apprentice, shall cause such apprentice to appear before two of his Majesty's justices of the peace for the county or district within which such apprentice shall be then serving, who shall inquire whether it may be fit and proper that such apprentice should continue in the service of such person or persons or be discharged therefrom, or bound or assigned over to any other person or persons, and shall thereupon make order either for the continuance of such apprentice with such person or persons or for the discharge of such apprentice, or for the binding or assigning of such apprentice to any other person, as to them in their discretion shall seem meet; and if they shall see fit, shall also require the person or persons so giving notice of removal to pay the amount of the premium received with such apprentice, or such portion of it as to them shall seem meet, for the expence of assigning or binding such apprentice to any other person to be approved by the said justices; and the person or persons to whom such apprentice shall be so bound or assigned shall be subject to the same rules and regulations as the person or persons to whom such apprentice shall be originally bound; and in case any such master or masters mistress or mistresses shall remove as aforesaid, and shall take any such apprentice to any other place without such order as aforesaid,

or shall wilfully abandon and leave any such apprentice without giving such notice as aforesaid, every person so offending shall forfeit the sum of ten pounds for every such apprentice, to the churchwardens and overseers of the poor of the parish township or place wherein at the time of such removal or taking the apprentice shall have been legally settled, for the use of the poor of the same parish township or place; provided an information shall be exhibited for such offence within three calendar months next after the commission of the same.

Provisions of 32 G. 3. c. 57. enforced with respect to assigning or discharging Apprentices.

IX. And whereas it may be expedient that those to whom parish apprentices are bound or assigned should be empowered to place out or assign over such apprentice to others, and it is proper that such placing out or assignments should in all instances be under the inspection and control of the magistrates; and it is fit that the person to whom such putting out or assignment shall be made and also the apprentice shall be made subject to the ordinary jurisdiction of justices of the peace, with respect to masters and parish apprentices; and it is inexpedient that any master or mistress should in any way discharge or dismiss from his or her service any parish apprentice without the consent of such justices; Be it therefore enacted, That from and after the first day of *October* in the year one thousand eight hundred and sixteen it shall not be lawful for any master or mistress to put away or transfer any parish apprentice to any other, or in any way to discharge or dismiss from his or her service any parish apprentice without such consent of justices as is directed in an Act passed in the thirty-second year of the reign of his present Majesty, intituled *An Act for the further Regulation of Parish Apprentices;* and that no settlement shall be gained by any service of such apprentice, after such putting away or transfer, unless such service shall have been performed under the sanction of such consent as aforesaid.

Penalty on discharging Apprentices without the Consent of Justices, 10*l.*

X. And be it further enacted, That any person or persons who after the first day of *October* in the year one thousand eight hundred and sixteen shall put away or transfer any parish apprentice to another, or who shall in any way discharge or dismiss from his or her service any parish apprentice without such consent as aforesaid, shall forfeit a sum not exceeding ten pounds for every apprentice so transferred.

Indentures not valid unless approved by Two Justices.

XI. And whereas the salutary provisions enacted by an Act passed in the forty-third year of the reign of her Majesty Queen *Elizabeth*, intituled *An Act for the Relief of the Poor*, are frequently evaded in the binding out of poor children, and the premium of apprenticeship or a part thereof is clandestinely provided by parish officers, who are thus enabled to bind out such poor children without the sanction of justices of peace; Be it further enacted, That after the said first day of *October* no indenture of apprenticeship, by reason of which any expence whatever shall at any time be incurred by the public parochial funds, shall be valid and effectual unless approved of by two justices of the peace under their hands and seals, according to the provisions of the said Act and of this Act.

Penalties may be recovered by Information, &c.

XII. And be it further enacted, That all penalties and forfeitures hereby imposed for any offence against this Act shall and may be recovered by information before any two justices of the peace of the county or district where such offence shall be committed.

Justices empowered to dispose of Penalties.

XIII. And be it further enacted, That it shall and may be lawful to and for the justices before whom any such penalty shall be recovered to direct such penalty, after deducting the necessary costs and charges attending any information and the proceedings thereon, to be paid applied and distributed either to the person or persons giving information of the offence for which such penalty shall be incurred, or to the overseer of the poor of the parish or township in which such offence shall have been committed, or by the officers whereof such apprentice shall have been bound, for the use of the poor of such parish or township, or in the binding of the apprentice respecting whom such offence shall be committed to any other person, or to be distributed and applied for any one or more of such purposes as to such justices shall seem meet.

Recovery of Penalties.

XIV. And be it further enacted, That in case of non-payment of any penalty hereby imposed, the same shall be levied by distress and sale of

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56 Geo. III. c. 139.

the offender's goods and chattels by warrant under the hands and seals of the justices before whom such offender shall have been convicted, or of any other two justices of the peace of the same county or district; and for want of such distress such offender shall be committed to the common gaol or house of correction for any period not less than one nor more than six months, to be appointed by the justices before whom such offender shall be convicted.

XV. And be it further enacted, That the conviction of all offences against this Act shall be in the form following; (that is to say),

Form of Conviction.

'BE it Remembered, That on the day of
' in the year of our Lord is convicted
' before us of his Majesty's Justices of the
' Peace for the county of upon the information of
' for that [*here state the Offence*] con-
' trary to the form of the Statute passed in the fifty-sixth of the reign
' of his Majesty King *George* the Third, intituled *An Act to regulate the*
' *binding of Parish Apprentices*; and for which offence we do adjudge that
' the said shall forfeit and pay the sum of
' to be paid and applied as follows [*here state the Applica-*
' *tion of the Penalty*]; and in case such penalty shall not be paid by the
' said or levied by distress upon
' goods and chattels, within days from the date of this con-
' viction, we adjudge that the said shall be im-
' prisoned in for the space of
' Given under our hands and seals the day and year first
' above mentioned.'

Persons not paying Penalty may be imprisoned.

XVI. And be it further enacted, That in case any person convicted for any offence against this Act shall not pay the penalty imposed by such conviction within one calendar month next after such conviction shall take place, it shall be lawful to and for the justices making such conviction, or for any two other justices of the county or district, to issue their warrant for the apprehending and imprisoning of such offender, notwithstanding such offender may have goods or chattels whereby such penalty might have been levied.

Power of Appeal.

XVII. And be it further enacted, That any person or persons who shall be dissatisfied with any act done by any justice or justices of the peace in the execution of this Act, may appeal against the same to any court or general or quarter sessions to be holden for the county within which such act shall have been done, within three calendar months after the fact so complained of, upon giving notice in writing to such justice or justices, and also to the person or persons who shall be interested in such appeal, within twenty-one days next after the act so appealed against shall have taken place; and in case such appeal shall be against any conviction, entering into a recognisance with two sufficient sureties, before any justice of the peace of the county or district within which such conviction shall have taken place, to appear at such general or quarter sessions to abide the judgment of the court upon such appeal, and to pay the costs which may be awarded thereon; and that it shall and may be lawful to and for the justices at such sessions to hear and determine the matter of such appeal, and to award costs therein as they in their discretion shall think fit; and all such appeals shall be to the sessions of the county within which the act appealed against shall have taken place, and not to any district or liberty within the same.

Power of Overseers extended to Churchwardens.

XVIII. And be it further enacted, That the provisions and penalties herein contained respecting overseers of the poor shall be deemed to extend to all churchwardens having the power and authority of overseers of the poor; and that all the provisions herein mentioned and contained respecting any parish or place shall extend to any incorporated or other district for the maintenance of the poor; and that the officers of any such district having power to bind apprentices, shall be subject to all the rules regulations and penalties herein mentioned and contained respecting overseers of the poor.

[No. XVII.] 1 & 2 Geo. IV. c. 32.—An Act for declaring valid certain Indentures of Apprenticeship and Certificates of Settlements of poor Persons in *England*. —[28*th May* 1821.]

No. XVII.
1 & 2 Geo. IV. c. 32.

1 & 2 Geo. IV. c. 32.

WHEREAS in divers parishes townships hamlets chapelries and places in *England* for a long period of time only one churchwarden or chapelwarden has been annually appointed where two or more churchwardens or chapelwardens had formerly been appointed for each of such parishes townships hamlets chapelries or places: And whereas divers indentures for the binding of parish apprentices and certificates of the settlements of poor persons, which may have been executed and signed by such single churchwarden or chapelwarden acting in and for a parish township hamlet or place, for which formerly two or more churchwardens or chapelwardens had been appointed, may on that account if contested in a court of law be deemed to be null and void: And whereas much litigation has recently arisen between parishes owing to the discovery of such defect as above-mentioned in the appointment of churchwardens and chapelwardens; and it would tend to prevent future litigation if such indentures and certificates as before-mentioned were in certain cases declared to be valid and effectual: May it therefore please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act all indentures for the binding of parish apprentices, and certificates of the settlement or settlements of poor persons, which have been previous to the passing of this Act executed or signed by one churchwarden or chapelwarden, acting or purporting to act in the capacity of churchwarden or churchwardens chapelwarden or chapelwardens, for any parish township hamlet chapelry or place in *England*, for which two churchwardens or chapelwardens had formerly been appointed, shall be deemed and taken to be as good and effectual to all intents and purposes as if the same indentures or certificates had been executed by one or more churchwarden or chapelwarden churchwardens or chapelwardens legally appointed; any law statute usage or custom to the contrary notwithstanding.

Certain Indentures and Certificates of Settlement declared valid.

II. Provided always, and be it further enacted and declared, That nothing in this Act contained shall be construed to affect or set aside any decision or judgment made or given in any court of judicature respecting any such indentures or certificates, or to alter impeach or affect the settlement of any person for whose removal any order of justices shall have been duly made previous to the passing of this Act, or to legalize or make valid any indentures or certificates to be signed or executed, as herein-before mentioned after the passing of this Act.

Not to affect Decisions already made.

PART VI.

CLASS III.

Banks Destroying, and other Trespasses.

P. [No. I.] 10 Geo. II. c. 32.—An Act for continuing, &c. * * * * and for the more effectual Punishment of Persons removing any Materials used for securing Marsh or Sea Walls. * * * * (1.)

10 Geo. II. c. 32.

V. 'AND whereas it frequently happens, that many idle and disorderly 'persons employed in fishing boats, and others residing near the 'sea coasts, do unlawfully and maliciously cut off draw up burn and 'destroy the piles which are drove into the marsh or sea walls and banks, 'whereby the chalk and other materials used for securing the said walls 'and banks fall away, and oftentimes take away the said chalk and other 'materials used for that purpose, and thereby frequent inundations hap-'pen to the lands lying within the said walls and banks, to the great loss 'and damage of the owners and occupiers of the said lands;' For remedy thereof, be it therefore further enacted by the authority aforesaid, That if any person or persons shall at any time or times hereafter unlawfully cut off draw up or remove and carry away any piles chalk or other materials which are or at any time hereafter shall be driven into the ground, and used for the securing any marsh or sea walls or banks, in order to prevent the lands lying within the same from being overflowed and damaged, it shall and may be lawful to and for any one or more of his Majesty's justices of the peace residing near the place where the said offence or offences shall be committed, and such justice or justices is and are hereby respectively authorized and required, upon complaint or information upon oath of such offence (which oath or oaths such justice or justices is and are hereby empowered to administer), to summon the party or parties so complained of, or to issue his or their warrant or warrants to apprehend and bring before him or them the person or persons so accused complained of or suspected; and upon his her or their appearance or neglect to appear to proceed to examine the matter of fact with which he she or they are charged, and upon due proof thereof made, either by confession of the party or parties so accused or upon the oath or oaths of one or more credible witness or witnesses to determine the same, and to convict the offender or offenders; and every person offending herein and being thereof convicted as aforesaid shall forfeit and pay the sum of twenty pounds, one moiety thereof to the informer and the other moiety to the overseer of and for the use of the poor of the parish wherein such offence shall be committed; the same to be levied by distress and sale of the offender's goods and chattels, together with the charges of such distress and sale, rendering the overplus (if any be) to the owner or owners thereof; and for want of sufficient distress the said justice or justices are hereby required to commit the person or persons convicted as aforesaid to the house of correction, there to remain and be kept at hard labour for the space of six months. (2.)

Piles, Chalk, &c. used for the Security of Marshes, not to be removed,

on Forfeiture of 20*l.* to be levied by Distress,

or Imprisonment for six Months.

(1.) For other parts see Vol. V.

(2.) For the Statutes which render certain Acts connected with this subject Felony, vide Part V.

[No. II.] 1 Geo. IV. c. 56.—An Act for the summary Punishment, in certain Cases, of Persons wilfully or maliciously damaging or committing Trespasses on public or private Property.—[15*th July* 1820.]

No. II.
1 Geo. IV. c. 56.

1 Geo. IV. c. 56.

WHEREAS it is expedient that a more summary mode than now by law exists of repressing and obtaining satisfaction for damages to buildings fences land growing crops and other real and personal property, whether of a private or public nature, by wilful and malicious trespassers and other wrongdoers should be provided; Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act, if any person or persons shall wilfully or maliciously do or commit any damage injury or spoil to or upon any building fence hedge gate stile guide post mile stone tree wood underwood orchard garden nursery ground crops vegetables plants land or other matter or thing growing or being thereon, or to or upon real or personal property of any nature or kind soever, and shall be thereof convicted within four calendar months next after the committing of such injury, before any justice of the peace for the county riding division city town or place where such offence shall have been committed, either by the confession of the party offending or by the oath of one or more credible witness or witnesses, or of the party aggrieved in the premises, which oath such justice is hereby empowered to administer, every person so offending and being thereof convicted as aforesaid shall forfeit and pay to the person or persons aggrieved such a sum of money as shall appear to such justice to be a reasonable satisfaction and compensation for the damage or injury or spoil so committed, not exceeding in any case the sum of five pounds, which said sum of money shall be paid to the person or persons aggrieved; but in case such conviction shall take place on the sole evidence of the party aggrieved, then and in such case such satisfaction and compensation shall be paid to the overseer or overseers of the poor of the parish township or place where the offence was committed, or if the conviction shall take place in *Ireland*, then such satisfaction and compensation shall be paid to the governor of the fever hospital or infirmary of the county city town or place where the offence shall have been committed, to be by him or them applied for the relief and maintenance of the poor thereof, or of the establishment of such fever hospital or infirmary; and in default of payment of the sum of money in which the offender or offenders shall have been so convicted as aforesaid immediately, or within such time as the justice shall appoint at the time of conviction, together with all costs charges and expences attending the conviction, such justice shall and may commit such offender or offenders to the common gaol or house of correction, there to be kept to hard labour for any time not exceeding three calendar months, unless such penalty costs and charges shall be sooner paid and satisfied: Provided always, that if any such damage injury or spoil shall have been done or committed as aforesaid to or upon any church chapel bridge building common way or other property whatsoever, whether real or personal, of a public nature or wherein any public right is concerned, it shall or may be lawful to and for any such justice to proceed against and convict the offender or offenders within the time aforesaid and in the manner aforesaid in any sum not exceeding five pounds, as to such justice shall seem just and reasonable, at the instance and upon the information of any person prosecuting such offender or offenders, and to order and direct one moiety of the sum to be paid for such offence to be paid to the person so prosecuting, and the other moiety to and for the use of the poor of the parish township or place where the offence shall have been committed; and in default of payment of the sum in which any such offender or offenders shall have been so convicted as aforesaid, together with all costs charges and expences attending such conviction as aforesaid, such justice shall and may commit such offender or offenders to the com-

Justices to award Satisfaction for wilful Damages done to Buildings, &c. or to or upon Property of any kind.

Limiting the Sum to 5*l*.

Application of the Money awarded.

In default of Payment, Offenders to be committed.

In case of public Property, one Moiety to the Informer, the other to the Poor of the Parish.

No. II.
1 Geo. IV.
c. 56.

mon gaol or house of correction, there to be kept to hard labour for any time not exceeding three calendar months, unless such penalty costs and charges shall be sooner paid and satisfied.

Punishment of Male Offenders under Sixteen Years of Age.

II. Provided always, and be it enacted, That if any male person or persons under the age of sixteen years shall offend against any of the provisions of this Act, it shall be lawful for the justice before whom he or they shall have been convicted, in default of payment of the sum of money awarded against him or them by the said justice, together with all costs charges and expences attending such conviction, immediately, or within such time as the justice shall appoint at the time of conviction, to commit such offender or offenders to the house of correction, there to be corrected and imprisoned and kept to hard labour for any term not exceeding six weeks.

Offenders may be apprehended and taken before a Justice without any Warrant.

III. And for the more easy bringing of offenders against this Act to justice be it further enacted, That it shall and may be lawful to and for any constable or other peace officer, and to and for the owner or owners of any property so damaged injured or spoiled, and to and for his her or their servant or servants or other person or persons acting by or under his her or their authority, and to and for such person or persons as he she or they may call to his her or their assistance, without any warrant or other authority than by this Act, to seize apprehend and detain any person or persons who shall have actually committed or be in the act of committing any offence or offences against any of the provisions of this Act, and to take him her or them before any justice of the peace for the county city or place where the offence or offences shall be committed; and such justice is hereby empowered and required to proceed and act with respect to such offender or offenders in manner by this Act directed.

Form of Conviction.

IV. And for the more easy and speedy conviction of offenders against this Act be it further enacted, That every justice of the peace before whom any person or persons shall be convicted of any offence against this Act shall and may cause the conviction to be drawn up in the following form of words or in any form of words to the same effect as the case shall happen; *videlicet*,

'BE it Remembered, That on the day of
'in the year of our Lord *A. B.* is
'convicted by and before me one of his
'Majesty's Justices of the Peace for the county of [*or*, riding
'division city town or place *as the case may be*], for that the said
' [*here state the Offence and the Time and Place when and where*
'*the same was committed*], contrary to the statute made in the first year of
'the reign of King *George* the Fourth, intituled *An Act* [*here set forth*
'*the Title of this Act*], and I the said Justice do hereby adjudge and deter-
'mine that the said shall for his said offence forfeit and pay
'the sum of lawful money of *Great Britain* [*or*, of *Ireland*,
'if the same offence shall be there committed], and do order that the
'same shall forthwith be paid by him [*here direct the Payment according*
'*to the Act*.] Given under my hand and seal the day and year first above
'written.'

Power of Appeal to the Quarter Sessions.

V. And be it further enacted, That it shall and may be lawful to and for any person or persons so convicted by any justice of the peace as before mentioned of any offence or offences against this Act, to appeal to the justices of the peace assembled at the general quarter sessions or general sessions to be holden for the county riding division city town or place where such conviction shall be made next after seven days from the time of such conviction, on giving immediate notice of such appeal and of the matters thereof, and finding sufficient security to the satisfaction of such justice for prosecuting the said appeal with effect and abiding the determination of the court therein; and such justices in such general quarter sessions or general sessions shall hear and determine the matter of such appeal, and may either confirm or quash and annul the said conviction and award such costs to either party as to them the said justices shall seem just and reasonable; and the decision of the said justices

therein shall be final binding and conclusive; and no proceedings to be had or taken in pursuance of this Act shall be quashed or vacated for want of form only, or be removed by *certiorari* or any other writ or process whatsoever into any of his Majesty's courts of record at *Westminster* or elsewhere, any law or statute to the contrary thereof in anywise notwithstanding; and if upon the hearing of any such appeal the judgment of the justice before whom any appellant shall have been convicted shall be confirmed, such appellant shall forthwith pay the penalty and costs awarded to be paid by such appellant, or in default thereof shall be immediately committed by the said court to the common gaol or house of correction, there to remain for any time not exceeding six calendar months unless such penalty and costs shall be sooner paid.

Not to affect any Act as to Punishment for Trespass, nor to extend to Persons claiming a Right, &c.

VI. And be it further enacted, That nothing in this Act contained shall repeal or affect any Act or Acts now in force, whereby any person or persons may be subject to punishment for wilful and malicious acts of trespass to any property either public or private, or shall extend to any case of wilful or malicious mischief or trespass to private property in which the damage claimed shall exceed the sum of five pounds, or to any case wherein it shall appear to the satisfaction of the justice or justices before whom the complaint is made that the party trespassing acted under a fair and reasonable supposition that he had a right to do the act to the property in respect whereof the trespass was committed or alleged to have been committed, or to do or commit the act complained of; or shall have committed such trespass in hunting, or being a qualified person and having duly obtained his certificate authorising him to kill game shall have committed the injury complained of in the pursuit of any kind of game.

Convictions under this Act to bar all other Suits for the same Offence.

VII. Provided always and be it enacted, That in case any person or persons shall be convicted of any offence against this Act before any justice of the peace, on the complaint or information of any person or persons, or public or private property having been so injured damaged or spoiled, and shall have paid the penalty costs and charges under such conviction, or shall have suffered the imprisonment awarded for non-payment thereof, then and in every such case such conviction shall and may be pleaded in bar of any action suit or information that shall be commenced instituted or prosecuted for such and the same offence in any court whatsoever.

Act to extend only to England and Ireland.

VIII. And be it further enacted, That this Act shall be in force in *England* and *Ireland*, and not in any other part of the United Kingdom.

PART VI.

CLASS IV.

Bastards.

B. [No. I.] 18 Eliz. c. 3.—An Act for setting the Poor to work, and for the avoiding of Idleness.

18 Eliz. c. 3. JUSTICES of peace shall order the punishment of the mother and reputed father of a bastard, &c. A rogue shall be conveyed from constable to constable until he come to the gaol. A stock to set the poor on work shall be provided in every city and town corporate. Houses of Correction shall be assigned in every county. Lands holden in socage may during twenty years be given towards the maintenances of houses of correction and stocks for the poor. EXP.

II. Concerning bastards begotten and born out of lawful matrimony, (1.) (an offence against God's law and man's law) the said bastards being now left to be kept at the charges of the parish where they be born, to the great burden of the same parish, and in defrauding of the relief of the impotent and aged true poor of the same parish, and to the evil example and encouragement of lewd life: (2) It is ordained and enacted by the authority aforesaid, That two justices of the peace (whereof one to be of the *quorum*) in or next unto the limits where the parish church is, (2.) within

(1.) The child of a woman divorced a mens et thoro is presumed to be a bastard: St. George's and St. Margaret's, Westminster, 1 Salk. 123. In other cases the legitimacy of a child born of a married woman, although living separately from her husband, is presumed; but non-access may be proved. and the old notion that a child cannot be a bastard, if the parents were within the four seas, is completely exploded. The wife cannot be a witness to prove the non-access; R. *v.* Reading, 2 sess. ca. 175: but where it was stated that it appeared on the examination of the mother, and *on other proof*, that the husband had no access, the order was held good; as other proof must be intended legal proof: R. *v.* Bedall; And. 8. But it is very objectionable to support a judgment obtained upon evidence, some part of which is legal and other part objectionable; unless it can be distinctly ascertained that the same conclusion must have been come to if the objectionable evidence had not been given; and it is in most cases manifestly impossible to distinguish the particular impression made by any particular part of the evidence adduced in support of any given fact as detached and separate from the other evidence offered for the same purpose; and in the immediate question, the single impression of the inadmissible evidence of the wife, if believed, would necessarily be more effective than that of all other witnesses (not going to remoteness of situation excluding the possibility of access) together. Where the husband, after an absence of some years, returned a fortnight before the birth of the child, the order was held good, and *per curiam*—"Circumstances which shew a natural impossibility that the husband could be the father of the child of which the wife is delivered, whether arising from his being under the age of puberty, or from his labouring under disability occasioned by natural infirmity, or from the length of time elapsed since his death, are grounds on which the illegitimacy of the child may be founded: that on the ground of improbability, however strong, they should not venture to proceed; but only such as shewed absolute physical impossibility: that the general presumption would prevail, except a case of plain, natural impossibility were shewn; and to establish as an exception the case of such extreme impossibility as the present could not do harm." R. *v.* Luffe, 8 East. 193.—The exception in the above case was certainly one upon the justness of which no doubt could be entertained: but it is to be recollected that the introduction of exceptions in extreme and favourable cases is often calculated to affect the certainty and stability of a rule; and it certainly would be very inconvenient to admit of particular inquiries as to the actual fact of filiation, when the question of physical impossibility may come to be a matter of critical nicety. If a man marries a woman whom he had never before seen, at however short a period previous to the birth, the legitimacy of the child is a settled point of law, notwithstanding the impossibility of the imputed filiation.

(2.) Quære, Is this essential, or only directory: Vide R. *v.* Skinn, 1 Bott. 476. As to whether there is any authority when the child is born in an extra-parochial place: R. *v.* Baker, 1 Bott. 476.

No. I.
18 Eliz.
c. 3.

which parish such bastard shall be born, (3.) upon examination of the cause and circumstance) (4.) shall and may by their discretion (5.) take order (6.) as well for the punishment of the mother and reputed father of such bastard child, as also for the better relief of every such parish in part or in all; (3) and shall and may likewise by like discretion take order for the keeping of every such bastard child, by charging such mother (7.) or reputed father with the payment of money weekly, or other sustentation for the relief of such child, in such wise as they shall think meet and convenient: (8.) (4) And if after the same order by them subscribed under their hands, any the said persons, *viz.* mother or reputed father, upon notice thereof, shall not for their part observe and perform the said order, that then every such party so making default in not performing of the said order to be committed to ward to the common gaol, (5) there to remain without bail or mainprize, except he she or they shall put in sufficient surety to perform the said order, or else personally to appear at the next general sessions of the peace to be holden in that county where such order shall be taken, (6) and also to abide such order as the said justices

A Provision for the keeping of Bastards.

Further Provisions relating hereto.

(3.) There are several cases in which the settlement of bastards is in a different place from that of their birth; and no provision has been made for any order of filiation in such cases, except in the case mentioned in Stat. 35 Geo. II. c. 101. s. 6. where the birth takes place during the suspension of an order of removal. Many orders have been made in these cases, but it seems very clear that they cannot be supported; and the subject certainly requires the assistance of the legislature.

(4.) If the mother is dead, the examination before birth, under Stat. 6. Geo. III. c. 31. is evidence of the filiation; and the Court said that they had no doubt that the sessions would be of opinion that it was conclusive: R. *v.* Ravenstone, 5 T. R. 373. And the same was ruled as to the admissibility of the evidence in Rex *v.* Clayton, 3 East. 58. But why a man should be concluded as to the truth of an ex parte examination taken in his absence, upon a subject upon which there is often a great deal of falsehood, it is rather difficult to discover. Neither is it very easy to reconcile the mere admissibility of the evidence with the decisions which have taken place respecting settlements; or with the general rule, that a party shall not be affected by evidence which he had no opportunity to controvert.

(5.) The order may be made after a period of fourteen years: R. *v.* Miles, 1 sess. ca. 77.

(6.) The putative father must be summoned, unless he actually appears; but a summons by a third justice to appear before the justices making the order is sufficient: R. *v.* Taylor, Temp. Hard. 112. And if summoned it is not requisite that he should appear: R. *v.* Upton Gray, 1 Bott. 479. And it is not necessary that the summons or appearance should appear on the face of the order: R. *v.* Clayton, 3 E. 58.

(7.) An order may be made upon the mother, notwithstanding she is married before the order is made: Ellen Taylor's case, 3 Bur. 1681.

(8.) The order cannot direct security to be given for the performance thereof, but may be set aside as to that and confirmed as to the remainder: Rex *v.* Price, 6 T. R. 147. Rex *v.* Fox, cited ibid.

The following points are collected by Burn, in analysing the usual form of orders of bastardy:—

1. The examination must be by the two justices, as well as the ordering part: R. *v.* Beard, 2 Salk. 478.—2. It is not necessary that the order should appear to be made upon the complaint of the churchwardens and overseers: Rex *v.* Buckall, 1 Barnadist. 261.—3. The sex must be stated: R. *v.* England, 1 Str. 503.—4. The places of birth must expressly appear in the adjudication; and it is not sufficient that it may be collected by inference: R. *v.* Cash, Cas. of Se. 59. R. *v.* Butcher, 1 Str. 437. R. *v.* Childers, 1 Barnadist. 326. R. *v.* Stanley, Cald. 172.—5. It is not necessary to state that the child is chargeable or likely to become so; that being evident of every bastard child.—6. The order must expressly adjudge that the party did beget the child; stating that he had carnal knowledge of the mother is not sufficient: R. *v.* Browne, 2 Str. 811; nor *whereas it hath appeared* to us, &c.: R. *v.* Pitts, Doug. 661.—7. Orders were quashed for the error, in stating that the justices *doth* adjudge, instead of *do;* Rex *v.* Weston, 2 Lord Raymond, 1198. Anon. ibid.—8. The justices have no authority to adjudge that J. S. is not the father, and therefore to discharge him: R. *v.* Jenkins, 2 Str. 1050.—9. A gross sum may be ordered for money laid out before: R. *v.* Odam, 1 Salk. 621.—10. The order should be for payment so long as the child is chargeable, and not until it shall be fourteen years of age: R. *v.* Barebaker, 1 Salk. 121. 2 Salk. 278; or till it shall be able to get its living by working: 1 Ventr. 210. But in R. *v.* Street, 2 Str., an order to pay till the child was nine years old; and in R. *v.* Buckall, 1 Barnardist. to pay till the age of twelve years, was held good; as there could not be any reasonable intendment that bastards would have any provision until those ages.—These two last cases seem to be rather objectionable, especially the latter; for it is very possible that a child may be able to gain a subsistence before the age of twelve years. In manufacturing districts it is a matter of constant experience that they do so at a much earlier age. Q. if the case amounts to more than a dictum?—11. The justices cannot order a sum for putting out the child apprentice: Brown's case, Comb. 448. Qu. Rex *v.* Buckall, ub. supr.

No. I.
18 Eliz. c. 3.

of the peace or the more part of them then and there shall take in that behalf (if they then and there shall take any;) (7) and that if at the said sessions the said justices shall take no other order, then to abide and perform the order before made as is aforesaid. [3 Car. 1. c. 4. continued until the end of the first session of the next parliament, and farther continued by 16 Car. 1. c. 4.] (9.)

(9.) The Statute 16 Charles I. continues the several Acts therein mentioned until other Acts shall be made to the contrary; or, in other words, makes them perpetual.

[No. II.] 7 James I. c. 4.—An Act for the due Execution of divers Laws and Statutes heretofore made against Rogues, Vagabonds and sturdy Beggars, and other lewd and idle Persons.*

7 James I. c. 4.
The Punishment of lewd Women who have Bastards.
18 Eliz. c. 3.
2 Bulstr. 348.
3 Car. 1. c. 4. sect 15.

VII. 'AND because great charge ariseth upon many places within this realm by reason of bastardy, besides the great dishonour of 'Almighty God,' Be it therefore enacted by the authority aforesaid, That every lewd woman which after this present session of Parliament shall have any bastard which may be chargeable to the parish, the justices of peace shall commit such lewd woman to the house of correction, there to be punished and set on work during the term of one whole year; (2) and if she shall eftsoons offend again, That then to be committed to the said house of correction as aforesaid, and there to remain until she can put in good sureties for her good behaviour not to offend so again.

* At length, *infra*.

[No. III.] 3 Charles I. c. 4.—An Act for Continuance and Repeal of divers Statutes.

3 Charles I. c. 4.
18 Eliz. c. 3.

XV. BE it enacted, That *interalia* so much of an Act made in the eighteeth year of the reign of the said late Queen *Elizabeth*, intituled 'An Act for the setting the poor on work and avoiding idleness,' as concerneth bastards begotten out of lawful matrimony: (2) With this, That all justices of the peace within their several limits and precincts and in their several sessions may do and execute all things concerning that part of the said statute that by justices of the peace in the several counties are by the said statute limited to be done; shall continue in force until the end of the first session of the next Parliament. (1.)

(1.) It is now established by several Cases, that, under the authority of this Act, the Sessions have original jurisdiction in Cases of Bastardy.

[No. IV.] 13 and 14 Charles II. c. 12.—An Act for the better Relief of the Poor of this Kingdom.

13&14 Char. II. c. 12.
Putative Fathers of Bastard Children running away, how to be proceeded against.

XIX. 'AND whereas the putative fathers and lewd mothers of bastard children run away out of the parish and sometimes out of the 'county, and leave the said bastard children upon the charge of the 'parish where they are born, although such putative father and mother 'have estates sufficient to discharge such parish; (2) Be it therefore enacted by the authority aforesaid, That it shall and may be lawful for the churchwardens and overseers for the poor of such parish where any bastard child shall be born, to take and seize so much of the goods and chattels, and receive so much of the annual rents or profits of the lands of such putative father or lewd mother, as shall be ordered by any two justices of peace as aforesaid for or towards the discharge of the parish, to be confirmed at the Sessions for the bringing up and providing for such bastard child: (3) And thereupon it shall be lawful for the sessions to make an order for the churchwardens or overseers for the poor of

such parish to dispose of the goods by sale or otherwise, or so much of them for the purposes aforesaid as the court shall think fit, and to receive the rents and profits or so much of them as shall be ordered by the sessions as aforesaid of his or her lands. (1.)

No. IV. 13 & 14 Car. II. c. 12.

(1) See the Statute post. title *Poor*. Class 27, No. 2.

[No. V.] 6 George II. c. 31.—An Act for the Relief of Parishes and other Places from such Charges as may arise from Bastard Children born within the same.

6 Geo. II. c. 31.

'WHEREAS the laws now in being are not sufficient to provide for the securing and indemnifying parishes and other places from the great charges frequently arising from children begotten and born out of lawful matrimony;' For remedy thereof, be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the twenty-fourth day of *June* in the year of our Lord one thousand seven hundred and thirty-three, if any single woman shall be delivered of a bastard child, which shall be chargeable or likely to become chargeable to any parish or extraparochial place, or shall declare herself to be with child, and that such child is likely to be born a bastard and to be chargeable to any parish or extraparochial place, and shall in either of such cases, in an examination to be taken in writing upon oath before any one or more justice or justices of the peace of any county riding division city liberty or town corporate wherein such parish or place shall lie, charge any person with having gotten her with child, it shall and may be lawful to and for such justice or justices upon application made to him or them by the overseers of the poor of such parish, or by any one of them, or by any substantial householder of such extraparochial place, to issue out his or their warrant or warrants for the immediate apprehending such person so charged as aforesaid, and for bringing him before such justice or justices, or before any other of his Majesty's justices of the peace of such county riding division city liberty or town corporate, and the justice or justices before whom such person shall be brought is and are hereby authorised and required to commit the person so charged as aforesaid to the common gaol or house of correction of such county riding division city liberty or town corporate, unless he shall give security to indemnify such parish or place, or shall enter into a recognisance with sufficient surety upon condition to appear at the next general quarter sessions or general sessions of the peace to be holden for such county riding division city liberty or town corporate, and to abide and perform such order or orders as shall be made in pursuance of an Act passed in the eighteenth year of the reign of her late Majesty Queen *Elizabeth*, concerning bastards begotten and born out of lawful matrimony.

After 24th June 1733, the Person charged on Oath of being the Father of a Bastard Child,

may be immediately apprehended,

and committed to Prison, unless he give Security.

18 Eliz. c. 3.

II. Provided nevertheless and be it enacted by the authority aforesaid, That if the woman so charging any person as aforesaid shall happen to die or be married before she shall be delivered, or if she shall miscarry of such child, or shall appear not to have been with child at the time of her examination, then and in any of the said cases such person shall be discharged from his recognisance at the next general quarter sessions or general sessions of the peace to be holden for such county riding division city liberty or town corporate, or immediately released out of custody by warrant under the hand and seal or hands and seals of any one or more justice or justices of the peace residing in or near the limits where such parish or place shall lie.

Such Person on the Woman's Miscarriage, &c. shall be discharged.

III. Provided also, and be it enacted by the authority aforesaid, That upon application made by any person who shall be committed to any gaol or house of correction by virtue of this Act, or by any person on his behalf, to any justice or justices residing in or near the limits where such parish or place shall lie, such justice or justices is and are hereby authorised and required to summon the overseer or overseers of the poor of such parish, or one or more of the substantial householders of such extraparochial

The Justices, on Prisoner's Request, may summon the Overseers, &c.

No. V.
6 Geo. II. c. 31.

place, to appear before him or them at a time and place to be mentioned in such summons, to shew cause why such person should not be discharged; and if no order shall appear to have been made in pursuance of the said Act of the eighteenth year of the reign of her late Majesty Queen *Elizabeth*, within six weeks after such woman shall have been delivered, such justice or justices shall and may discharge him from his imprisonment in such gaol or house of correction to which he shall have been committed.

and if no Order be made within six Weeks after the Woman's Delivery, Prisoner to be set at Liberty.

The Woman not to be examined relating to her Pregnancy till one Month after her Delivery.

IV. Provided always, and be it further enacted by the authority aforesaid, that it shall not be lawful for any justice or justices of the peace to send for any woman whatsoever before she shall be delivered and one month after, in order to her being examined concerning her pregnancy or supposed pregnancy, or to compel any woman before she shall be delivered to answer to any questions relating to her pregnancy; (1.) any law usage or custom to the contrary notwithstanding.

(1.) 1. One who is de facto guardian of the poor of a parish united with other parishes under the Stat. 22 Geo. III. c. 83. for the better relief and employment of the poor, and who is received and acknowledged by the parish as guardian, though not legally appointed under the statute, is yet competent to apply in that character to a justice of the peace to take the examination of a single woman with child, in order to filiate the bastard; which by the Stat. 6 Geo. II. c. 31. s. 1. is directed to be made upon application by the overseers of the poor, in whose place such guardian is appointed, and he is also competent to apply to the justice for a summons against a reputed father for not obeying an order of bastardy; which by Stat. 49 Geo. III. c. 68. s. 3. is directed to be made upon complaint by any one of the overseers of the poor. And though the latter Statute direct the Magistrate, upon such complaint and proof upon oath of the order for payment of maintenance, and non-payment thereof, to issue his warrant to apprehend the reputed father, yet it is proper for the Justice to issue a summons in the first instance to the party charged to attend and shew cause, &c. Rex v. St. Martyr, (Inhab.) 13 E. R. 55.—2. The examination of a pregnant woman, taken before a justice of peace under Stat. Geo. II. c. 31. is admissible evidence on an application to the quarter sessions to make an order of filiation on the putative father, if the woman die before such application is made; and if not contradicted ought to be conclusive. Rex v. Ravenstone, (Inhab.) 5 T. R. 373.—3. An order of bastardy may be made after the death of the woman, upon her examination when taken pregnant, under Stat. 6 Geo. II. c. 31. Rex v. Ravenstone, (Inhab.) 5 T. R. 373.—4. If a person be bound by a recognisance by one Magistrate under 6 Geo. II. c. 31. to appear at the next sessions and perform such order as shall there be made on him, under the 18 Eliz. c. 3. respecting bastards, the sessions can only make an order of bastardy on him, but cannot order him also to give security for the performance of that order. Rex v. Price, 6 T. R. 147.—5. Where the putative father of a bastard child gave a voluntary bond, and not under the compulsion of Stat. 6 Geo. II. c. 31. to the parish officers, conditioned for the payment of a sum certain every three months until the child should be deemed capable of providing for herself; Held: that such bond was good and the condition sufficiently certain. Middleham v. Bellerby, 1 M. & S. 310.—6. A soldier in actual service may be committed to prison for want of sureties under Stat. 6 Geo. II. c. 31. for being the father of a bastard child. Rex v. Archer, 2 T. R. 270. Rex v. Bower, 5 T. R. 156.—7. The Statute 6 Geo. II. c. 31. only authorises parish officers to take security from the putative father of a bastard child to indemnify the parish: therefore where they had taken a promissory note absolute for a sum certain, to which there was a plea of tender of a lesser sum as the amount of the damage actually sustained by the parish, the issue upon which was found for the defendant: Held: that the plaintiffs could not recover more. Cole v. Gower, 6 E. R. 110. And see the Overseers of St. Martin in the Fields v. Warren, 1 B. & A. 491.—8. Every reasonable intendment will be made in favour of an order of justices. Therefore where an order of bastardy, reciting that it had appeared to the justices on the oath of R. T. that the said Mary Cole (referring to the title in which she was named as Mary Cole deceased) was delivered of a bastard child, &c.; and further, that upon the examination of the said M. C. taken on oath, &c. dated, &c. in the presence of the said R. T., the said M.C. upon her oath charged the defendant with being the father, &c. adjudged that therefore upon examination of the cause and circumstances of the premises, as well on the oath of the said M. C. before birth so taken, and also upon the oath of the said R. T. that the defendant was the father, and that he should pay so much, &c.; the Court will intend (especially after appeal confirming the order) that M. C. was dead at the time of the order made, and that her examination on oath before taken in writing under the Stat. 6 Geo. II. c. 31. was verified on oath of R. T. before the Magistrates making the order; which examination is sufficient after the death of the mother to warrant a subsequent order of filiation. Rex v. Clayton, 3 E. R. 58.—9. An order filiating the child of a married woman is good; though it only states that such child was likely to become chargeable; which are the words of the Stat. 6 Geo. II. c. 31. s. 1. as applied to the bastards of single women; for upon that Statute as well as the Stat. 18 Eliz. c. 3. which has the words, born out of lawful matrimony, the only question is, whether the child be by law a bastard. 8 E. R. 193.

[No. VI.] 49 Geo. III. c. 68.—An Act to explain and amend the Law of Bastardy, so far as relates to indemnifying Parishes in respect thereof.—[*3rd June* 1809.]

No. VI. 49 Geo. III. c. 68.

49 George III. c. 68. 18 Eliz. c. 3.

'WHEREAS the provisions of an Act made in the eighteenth year of 'the reign of Queen *Elizabeth*, concerning bastards begotten and 'born out of lawful matrimony, are found to be inadequate to the pur- 'poses of indemnifying parishes against the charges and expences in- 'curred by the apprehending and securing the reputed father, and also 'by the obtaining the order of filiation: And whereas it is expedient that 'such charges and expences should be borne and discharged by the ad- 'judged reputed father of such bastard child or children, at the discretion 'of the justices by whom such adjudication shall be made either in the 'court of quarter sessions or otherwise, not exceeding the amount herein 'after mentioned:' Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That every person who shall hereafter be adjudged to be the reputed father of any bastard child or children shall be chargeable with and liable to the payment of all reasonable charges and expences incident to the birth of such bastard child or children, and also to the payment of the reasonable costs of apprehending and securing such reputed father, and also to the payment of the costs of the order of filiation, such costs of apprehending and securing the reputed father and of the order of filiation not to exceed the sum of ten pounds; and all such charges expences and costs shall be duly and respectively ascertained on oath before the justices of the peace or the court of quarter sessions making such order of filiation, which oath such justices or court are hereby respectively empowered to administer.

Reputed Father of a Bastard shall be chargeable with Expences incident to the Birth, and with Costs of his own Apprehension and of the Order of Filiation.

II. And be it further enacted, That if any single woman shall declare herself to be with child, and that such child is likely to be born a bastard and to be chargeable to any parish township or extraparochial place, and shall in an examination to be taken in writing upon oath before any justice of the peace of any county riding division city liberty or town corporate wherein such parish township or place shall lie, charge any person with having gotten her with child, it shall be lawful to and for such justice upon application made to him by the overseer of the poor of such parish or township, or by any substantial householder of such extraparochial place, to issue out his warrant for the immediate apprehending of such person so charged as aforesaid, and for bringing him before such justice or before any other justice of the peace of such county riding division liberty or town corporate; and the justice before whom such person shall be brought, having authority in this behalf, is hereby authorised and required to commit the person so charged as aforesaid to the common gaol or house of correction of such county riding division liberty or town corporate, unless he shall give security to indemnify such parish or place or shall enter into a recognisance with sufficient surety or sureties upon condition to appear at the next general quarter sessions or general sessions of the peace to be holden for such county riding division city liberty or town corporate, to abide and perform such order or orders as shall then be made (1.) in pursuance of the said Act of the eighteenth year of the reign of Queen *Elizabeth*, unless one such justice as aforesaid shall have certified in writing under his hand to such general quarter sessions or general sessions of the peace, that it had been proved before him upon the oath of one credible witness that such single woman had not been then delivered or had been delivered within one month only previous to the day on which such general quarter sessions or general sessions of the peace shall be holden, or unless two justices of the peace of

Men charged on Oath by Women likely to be delivered of Bastards, may be apprehended by Warrant of a Justice and compelled to give Security to indemnify the Parish, or to abide the Order of Sessions, under 18 Eliz. c. 3.

(1.) There was an oversight in the introduction of the word THEN, which confines the Condition of the Recognisance to Orders made at the Sessions. The Recognisance directed by Stat. 6 Geo. II. was general, to abide such Order as should be made in pursuance of the Statute of Elizabeth, and which of course extended to Orders made by Justices out of Sessions.

No. VI.
49 Geo. III. c. 68.

such county riding division city liberty or town corporate shall have certified in writing under their hands to the next, or where such woman shall not have been delivered as aforesaid then to the immediately subsequent general quarter sessions or general sessions of the peace that an order of filiation had been already made on the person so charged, or that such order was not then requisite to be made on account of the death of the child born a bastard, or for other like sufficient reason; in each of which cases firstly before mentioned it shall be lawful for the justices assembled at such general quarter sessions or general sessions of the peace to respite such recognisance to the then next general quarter sessions or general sessions of the peace to be holden for such county riding division city or town corporate, without requiring the personal attendance of the putative father so bound or of that of his surety or sureties, and in either of the said two last-mentioned cases it shall be lawful for the justices assembled as aforesaid wholly to discharge such recognisance.

For Maintenance of Bastard Children.

III. 'And whereas parishes are often put to great expence in enforcing 'the performance of orders of maintenance made on the filiation of bastard 'children;' Be it therefore further enacted, That if any reputed father or any mother of such bastard child or children on whom any order of filiation or maintenance of such child or children shall have been made by the court of quarter sessions, or which shall have been made by two justices of the peace and confirmed by the court of quarter sessions, or against which no appeal shall have been made to the court of quarter sessions, shall neglect or refuse to pay any sum or sums of money which he or she shall have been ordered to pay towards the maintenance or other sustentation for the relief of any such bastard child or children by any such order, it shall be lawful for any justice of the peace of the county riding division city liberty or town corporate in which such reputed father or such mother shall happen to be, and the said justice is hereby required upon complaint made to him by any one of the overseers of the poor of any parish township or place liable to the maintenance or support of such bastard child or children or where such bastard child or children shall then be, and upon proof on oath of such order for the payment of such sum or sums of money and of such sum or sums of money being unpaid and of a demand of such payment having been made and a refusal to pay the same, or that such reputed father or such mother hath left his or her usual place of abode and hath avoided a demand thereof being made by such overseer, to issue his warrant to apprehend such reputed father or such mother and to bring him or her before such justice or any other justice of the peace of the same county riding division city liberty or town corporate to answer such complaint; and if such reputed father or such mother shall not pay such sum or sums of money as shall appear to the said justice before whom such reputed father or such mother shall be brought to be due and unpaid, or shall not shew to such justice some reasonable and sufficient cause for not so doing, it shall be lawful for such justice and the said justice is hereby required to commit such reputed father or such mother to the publick house of correction or common gaol of the said county, to be there kept to hard labour for the space of three months, unless such reputed father or such mother shall before the expiration of the said three months pay or cause to be paid to one of the overseers of the poor of the parish township or place on whose behalf such complaint as aforesaid was made the said sum or sums of money so due and unpaid as aforesaid, and so from time to time and as often as such reputed father or such mother shall in manner aforesaid neglect or refuse to pay any other sum or sums of money that shall afterwards become due by virtue of and under such order after the expiration of or discharge from any such former imprisonment as aforesaid.

Father or Mother neglecting to pay for Maintenance of Bastard according to Order, may be apprehended and committed by one Justice for Three Months, or till Payment.

Expences and Costs subject to the Discretion of Justices or Sessions, and recoverable as under 18 Eliz. c. 3.

IV. Provided always, and be it further enacted, That all such charges expences and costs shall be wholly subject to the discretion of the justices or court of quarter sessions who shall make such order of filiation; and the justices or court of sessions are hereby authorised if they shall

No. VI.
49 Geo. III.
c. 68.

see fit to allow and order payment of the whole or any part thereof: Provided always, That the costs of apprehending and securing the reputed father and of the order of filiation shall not in any case exceed the sum of ten pounds; and for securing the due payment of the same after such allowance and order as aforesaid, all and every the powers authorities provisions clauses matters and things contained in the said Act passed in the eighteenth year of the reign of Queen *Elizabeth* concerning bastards begotten and born out of lawful matrimony shall be respectively observed used and practised in the execution of this Act, and shall be construed deemed and taken to apply as fully and effectually to all intents and purposes as if the said powers authorities provisions clauses matters and things were specially recited and re-enacted in this Act.

Appeal to the Quarter Sessions, on giving Notice and entering into Recognisance.

V. Provided also, and be it further enacted, That any person or persons who shall think himself herself or themselves aggrieved by any order made by such justices as aforesaid under the provisions of this Act, and not originating in the quarter sessions, may appeal to the next general quarter sessions of the peace to be holden for the county where such order shall be made, on giving notice to such justices or to one of them, and also to the churchwardens and overseers of the poor of the parish on whose behalf such order shall have been made or to one of them, ten clear days before such general quarter sessions of the peace at which such appeal shall be made of his her or their intention of bringing such appeal and of the cause and matter thereof, and entering into a recognisance within three days after such notice before some justice of the peace for such county with sufficient surety conditioned to try such appeal and abide the judgment and order of and pay such costs as shall be awarded by the justices at such quarter sessions, which said justices at their said sessions, upon proof of such notice being given and of entering into such recognisance as aforesaid, shall and they are hereby required to proceed in hear and determine the causes and matters of all such appeals and shall give such relief and costs to the parties appealing or appealed against as they in their discretion shall judge proper; and such judgments and orders therein made shall be final binding and conclusive to all parties concerned and to all intents and purposes whatsoever.

So much of 6 Geo. 2. c. 31. § 1, 2. as authorizes Justices to commit reputed Father before Birth of Bastard, repealed.

VI. And be it further enacted, That so much of an Act passed in the sixth year of the reign of his late Majesty King *George* the Second, intituled "An Act for the Relief of Parishes and other Places from such Charges as may arise from Bastard Children born within the same," as authorises the justice or justices before whom the reputed father of a bastard child shall be brought, in cases where the woman has not been delivered, to commit such reputed father to the common gaol or house of correction unless he shall give security to indemnify the parish or place or shall enter into a recognisance with sufficient surety upon condition to appear at the next general quarter sessions or general sessions of the peace, shall be and is hereby repealed.

No future Appeal without Notice. [See § 5.]

VII. And be it further enacted, That from and after the passing of this Act no appeal in any case relating to bastardy shall be brought received or heard at the said quarter sessions unless such notice shall have been given and such recognisance shall have been entered into in manner aforesaid according to the provisions of this Act.

"Commencement of Act, 20th *July* 1809. § 8."

[No. VII.] 50 Geo. III. c. 51.—An Act to repeal so much of an Act, passed in the Seventh Year of King *James* the First, as relates to the Punishment of Women delivered of Bastard Children; and to make other Provisions in lieu thereof.—[*9th June* 1810.]

50 Geo. III. c. 51.
7 Jac. I. c. 4.

WHEREAS an Act was passed in the seventh year of the reign of his late Majesty King *James* the First, intituled, *An Act for the due Execution of divers Laws and Statutes heretofore made against Rogues Vagabonds and Sturdy Beggars and other Lewd and Idle Persons*: And whereas

No. VII.
50 Geo. III. c. 51.

it is among other things directed and enacted, that every lewd woman who after the then present session of Parliament should have any bastard which might be chargeable to the parish should be committed to the house of correction, there to be punished and set on work during the term of one whole year; and that if such woman should offend again in like manner, she should be committed to the house of correction, there to remain until she should put in good securities not to offend so again: And whereas the punishment aforesaid, if rigorously inflicted, might be too severe and might subject the offender to imprisonment for life: May it therefore please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the Authority of the same, That so much of the said recited Act passed in the seventh year of his late Majesty King *James* the First, as relates to the commitment of women to the house of correction, there to be punished and set on work for having bastard children who may be chargeable to the parish, shall be and the same is hereby repealed.

So much of recited Act as relates to the Commitment of Women for having Bastard Children repealed.

Limitation of Punishment.

II. And be it further enacted, That from and after the passing of this Act, in cases when a woman shall have a bastard child which may be chargeable to the parish, it shall be lawful for any two justices of the peace before whom such woman shall be brought and they shall or may at their discretion commit such woman to the house of correction for the district or place, and there to be set on work for any time not exceeding twelve calendar months nor less than six weeks.

Justices may mitigate Confinement and discharge.

III. And be it further enacted, That it shall be lawful for any two justices of the peace at any petty session for the division wherein the parish to which such bastard child may be chargeable is situate, upon their own knowledge or a certificate duly authenticated from the keeper of such house of correction in which such woman shall have been confined for any space not less than six weeks of the good behaviour of such woman during such her confinement and of the reasonable expectation of her reformation, by warrant under their hands and seals to order such woman to be immediately (or at the time to be appointed in such warrant) discharged and released from further confinement.

No Woman to be committed till a certain Period.

IV. Provided always and be it further enacted, That nothing in this Act contained shall extend or be construed to extend to authorize any justices of the peace to commit any such woman to the house of correction until she shall have been delivered for the space of one calendar month.

PART VI.

CLASS V.

Bent.

[No. I.] 15 George II. c. 33.—An Act to revive several Acts, * * * * and for the more effectual preventing the cutting of Star or Bent. P.

15 George II. c. 33.

VI. 'AND whereas upon the north-west coasts of this kingdom and especially in the county palatine of *Lancaster* the sea is 'bounded and the adjacent lands are prevented from being overflowed by 'large sand hills which are composed of such loose sand that in dry weather 'when any violent strong west winds happen to blow the same is carried 'away and thrown upon the adjacent lands, not only to the damage 'thereof but also to the great terror and danger of the inhabitants, who 'are thereby exposed to the inundation of the sea: And whereas it has 'been found by experience that the best way to preserve the said hills 'from being blown away as aforesaid is to plant them with a certain rush 'or shrub called star or brent, which proves an effectual method for 'keeping the same firm and solid, and which the owners of the said lands 'are at great costs and charges in yearly setting and planting for that 'purpose: And whereas it frequently happens that many idle and dis-'orderly persons residing near the said coasts do unlawfully and mali-'ciously in the night-time as well as by day cut pull up and carry away 'the star or bent so planted as aforesaid, and instead of working in an 'honest manner for the maintenance and support of their families do 'privately sell and dispose of the said star or bent for making of mats 'brushes and brooms or besoms, and thereby the said hills are rendered 'so loose and open that the same are often blown upon the adjacent 'lands, which are covered over therewith in such manner as to destroy 'the corn grass and herbage thereof and expose the same to inundations 'to the great loss and damage of the owners and occupiers of the said 'lands:' For remedy whereof, be it enacted by the authority aforesaid, That if any person or persons shall at any time or times from and after the twenty-ninth day of September one thousand seven hundred and forty-two by day or night, without the consent of the lord or owner of such star or bent hills, cut pull up or carry away any star or bent which already is or at any time or times hereafter shall be planted or set on the said hills or banks on the north-west coasts of *England* in order to preserve and to prevent the same from being blown upon the said adjacent lands, it shall and may be lawful to and for any one or more of his Majesty's justices of the peace of the county riding city town corporate liberty or division where such star or bent shall be cut pulled up or carried away, and such justice or justices is and are hereby empowered upon complaint or information upon oath made of such offence (which oath such justice or justices is and are hereby authorized to administer) to summon the party or parties so complained of, and in default of appearance thereon to issue out his or their warrant or warrants to apprehend and bring before him or them the person or persons so accused or complained of; and upon proof thereof made, either by confession of the party or parties so accused or upon the oath of one or more credible witness or witnesses, to convict the offender or offenders; and every person so offending and being thereof convicted as aforesaid shall forfeit and pay the sum of twenty shillings; one moiety thereof to the

Penalty for cutting Star or Bent from the Sand-hills.

No. I.
15 Geo. II.
c. 33.

informer and the other moiety to the lord or owner of such star bent or sand-hills; the same to be levied by distress and sale of the offender's goods and chattels by warrant under the hands and seals of such justice or justices together with the charges of such distress and sale, rendering the overplus if any be to the owner or owners thereof; and for want of sufficient distress the said justice or justices are hereby required to commit the person or persons so convicted as aforesaid to the house of correction, there to remain and be kept to hard labour for the space of three months; and if any person or persons so convicted shall afterwards be guilty of a second offence and thereof lawfully convicted by such justice or justices, either by confession of the party or parties or upon the oath of one or more credible witness or witnesses, such person or persons shall be committed to the house of correction for the space of one year, there to be whipt and kept to hard labour.

Penalty on second Offence.

Penalty on having Star or Bent in Custody.

VII. And be it further enacted by the authority aforesaid, That if any star or bent shall be found in the custody or possession of any person or persons within five miles of any such star bent or sand-hills as aforesaid, such person or persons being convicted thereof before one or more justice or justices in manner aforesaid, shall be deemed adjudged and taken to be the cutter and puller of such star or bent from such sand-hills, and shall forfeit and pay the sum of twenty shillings; one moiety thereof to the lord or owner of such star bent or sand-hills, the same to be levied in manner aforesaid by distress and sale of the offender's goods and chattels, together with the charges of such distress and sale, rendering the overplus if any to the owner or owners thereof: and for want of sufficient distress such person or persons shall be committed in manner aforesaid to the house of correction, there to remain and be kept to hard labour for the space of three months.

Proviso.

VIII. Provided always, That nothing in this Act contained shall extend or be construed to extend to prohibit or restrain any person or persons from the exercise or enjoyment of any ancient prescriptive right to cut star or bent upon the sea coasts in the county of *Cumberland.*

PART VI.

CLASS V. a.

Bread.

[No. I.] 1 & 2 Geo. IV. c. 50.—An Act to alter and amend an Act made in the Fifty-ninth Year of the Reign of his late Majesty King *George* the Third, intituled *An Act to regulate the Making and Sale of Bread out of the City of* London *and the Liberties thereof, and beyond the Weekly Bills of Mortality and Ten Miles of the* Royal Exchange, *where no Assize is set; and for establishing other Provisions and Regulations relative thereto.*—[8th *June* 1821.]

WHEREAS an Act was passed in the fifty-ninth year of the reign of his late Majesty King *George* the Third, intituled *An Act to repeal certain Acts now in force for regulating the Making and Sale of Bread out of the City of* London *and the Liberties thereof, and beyond the Weekly Bills of Mortality and Ten Miles of the* Royal Exchange, *where no Assize is set; and for establishing other Provisions and Regulations relative thereto*: And whereas it is deemed expedient that the said recited Act, so far as the same relates to the weight of bread and to the punishment of bakers or sellers of bread who shall sell the same deficient in its due weight, should be repealed, and that more effectual provisions should be established for punishing persons who shall adulterate meal flour or bread: But as such beneficial purposes cannot be effected without the aid and authority of Parliament, may it therefore please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That the said recited Act, so far as the same relates to the weight of bread and to the punishment of bakers or sellers of bread who shall sell the same deficient in its due weight, be and the same is hereby repealed.

1 & 2 Geo. IV. c. 50.

59 Geo. 3. c. 36.

Certain Parts of recited Act repealed.

II. And be it further enacted, That it shall be lawful for any person or persons whomsoever out of the city of *London* and the liberties thereof and beyond the weekly bills of mortality and ten miles of the *Royal Exchange* to make bake sell and expose for sale any bread made of flour or meal of wheat barley rye oats buckwheat Indian corn peas beans rice and every other kind of grain whatsoever and potatoes or any of them, and with any common salt pure water eggs milk yeast barm leven and potatoe yeast, and mixed in such proportions as the makers or sellers of bread shall think fit; any law usage or custom to the contrary in anywise notwithstanding.

Directing with what Materials Bread may be made and sold.

III. And be it further enacted, That although no assize of bread shall be set in pursuance of an Act passed in the fifty-third year of the reign of his late Majesty, intituled *An Act to alter and amend two Acts of the Thirty-first Year of King* George *the Second, and the Thirteenth Year of his late Majesty, so far as relates to the Price and Assize of Bread to be sold out of the City of* London *and the Liberties thereof, and beyond the Weekly Bills of Mortality and Ten Miles of the* Royal Exchange; no loaf or loaves of bread called or deemed assize loaf or loaves in the tables of

Assize Bread and Priced Bread not to be made at the same Time in the same Place.

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the assize and price of bread annexed to the said last-mentioned Act and referred to, and the weight of which varies according to the variation in the price of grain, shall be made for sale sold or carried out for sale or be offered or exposed to or for sale or be allowed to be sold, where any loaf or loaves of the bread called or deemed priced loaf or loaves in the tables of the assize and price of bread in and by the said Act of the fifty-third year of the reign of his late Majesty enacted and referred to, and the price of which varies according to the variation in the price of grain, shall at the same time be made for sale or be allowed to be sold; (that is to say), no assize loaves of the price of three pence and priced loaves called quartern loaves; nor assize loaves of the price of six pence and priced loaves called quartern loaves; nor assize loaves of the price of twelve pence and priced loaves called half-peck loaves: nor assize loaves of the price of eighteen pence and priced loaves called peck loaves, shall at the same time be made for sale sold or carried out for sale or be offered or exposed to or for sale, or allowed to be sold by any baker or other seller of bread in his her or their shop dwelling house or premises, that unwary persons may not be imposed upon and injured by buying assize loaves referred to in the said tables as or for priced loaves so referred to in the said tables, or by buying such priced loaves as or for such assize loaves; and every person who shall offend therein, and be convicted of any such offence in manner herein-after mentioned, shall for every such offence forfeit and pay a sum not exceeding forty shillings nor less than ten shillings, as the magistrate or magistrates justice or justices before whom any such offender or offenders shall be convicted shall from time to time adjudge and determine.

Penalty.

Bakers not to use Alum, &c. in making of Bread for Sale.

IV. And be it further enacted, That no person or persons making or who shall make bread for sale out of the city of *London* and the liberties thereof, and beyond the weekly bills of mortality and ten miles of the *Royal Exchange*, nor any journeyman or other servant of any such person or persons as last mentioned, shall at any time or times in the making of bread for sale put any alum or preparation or mixture in which alum shall be an ingredient or any other preparation or mixture in lieu of alum into the dough of such bread, or in anywise use or cause to be used any alum or any other unwholesome mixture ingredient or thing whatsoever in the making of such bread, or on any account or under any colour or pretence whatsoever, upon pain that every such person whether master or journeyman or other person, who shall knowingly offend in the premises and shall be convicted of any such offence, either by his her or their own confession, or upon the oath (or, being of the people called *Quakers*, affirmation) of one or more witness or witnesses, shall on every such conviction forfeit and pay any sum of money not exceeding twenty pounds nor less than five pounds, or in default of payment thereof shall by warrant under the hand and seal or hands and seals of the magistrate or magistrates justice or justices before whom such offender shall be convicted, be committed to the house of correction or some prison of the city county borough or place where the offence shall have been committed or the offender or offenders shall be apprehended, there to remain for any time not exceeding twelve nor less than three calendar months from the time of such commitment, unless such penalty shall be sooner paid as any such magistrate or magistrates justice or justices shall think fit to order and direct; and it shall be lawful for the magistrate or magistrates justice or justices before whom any such offender shall be convicted, to cause the offender's name place of abode and offence to be published in some newspaper which shall be printed published or circulated in or near the county division riding or district where the offence shall be committed, and to defray the expence of publishing the same out of the money to be forfeited as last mentioned, if any shall be paid or recovered.

Penalty.

Adulterating Corn, Meal, or Flour, &c.

V. And be it further enacted, That no person shall knowingly put into corn meal or flour which shall be ground dressed bolted or manufactured for sale out of the said city of *London* and the liberties thereof, and

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beyond the weekly bills of mortality and ten miles of the *Royal Exchange*, either at the time of grinding dressing bolting or in anywise manufacturing the same, or at any other time or times, any ingredient mixture or thing whatsoever, or shall knowingly sell offer or expose to or for sale any meal or flour of one sort of grain as or for the meal or flour of any other sort of grain, or any thing as or for or mixed with the meal or flour of any grain which shall not be the real and genuine meal or flour of the grain the same shall import to be and ought to be, upon pain that every person who shall offend in the premises and shall be thereof convicted in manner herein-after mentioned shall forfeit and pay for every such offence any sum not exceeding twenty pounds nor less than five pounds, as the magistrate or magistrates justice or justices before whom any such offender shall be convicted shall think fit or order and direct.

Penalty.

VI. And be it further enacted, That every loaf of every sort of bread made of the meal or flour of any other grain than wheat, which shall be made for sale or be sold carried out offered or exposed in anywise to or for sale out of the city of *London* and the liberties thereof, and beyond the weekly bills of mortaility and ten miles of the *Royal Exchange*, shall be marked with a large roman (M); and that every person who shall make for sale sell offer or expose to or for sale any loaf of any such sort of bread, which shall be made of the meal or flour of any other grain than wheat, which shall not be marked as herein-before directed, shall for every time he or she or they shall so offend in the premises, and be thereof convicted in manner herein-after directed, forfeit and pay a sum not exceeding forty shillings nor less than ten shillings for every loaf of such bread which shall not be so marked, as the magistrate or magistrates justice or justices before whom any such person shall be convicted shall from time to time adjudge and determine.

Loaves made of the Meal of any other Grain than Wheat to be marked with the Letter (M).

Penalty.

VII. And be it further enacted, That it shall be lawful for any magistrate or magistrates justice or justices of the peace within the limits of their respective jurisdictions, and also for the peace officer or officers of any parish or place where any miller mealman or baker or other person who shall grind grain, or dress or bolt meal or flour, or make bread for reward or sale out of the city of *London* and the liberties thereof, and beyond the weekly bills of mortality and ten miles of the *Royal Exchange*, authorised by warrant under the hand and seal or hands and seals of any such magistrate or magistrates justice or justices, and which warrant any such magistrate or magistrates justice or justices is and are hereby empowered to grant, at seasonable times in the day to enter into any house mill shop stall bakehouse bolting-house pastry warehouse outhouse or ground of or belonging to any miller mealman or baker or other person who shall grind grain or dress or bolt meal or flour or make bread for reward or sale as aforesaid, and to take with him or them to his or their assistance one or more master miller mealman or baker millers mealmen or bakers, and to search or examine whether any mixture ingredient or thing, not the genuine produce of the grain such meal or flour shall import or ought to be, shall have been mixed up with or put into any meal or flour in the possession of such miller mealman or baker, either in the grinding of any grain at the mill or in the dressing bolting or manufacturing thereof, whereby the purity of any meal or flour is or shall be in anywise adulterated, or whether any alum or other ingredient shall have been mixed up with or put into any dough or bread in the possession of any such baker or other person, whereby any such dough or bread is or shall be in anywise adulterated, and also to search for alum or any other ingredient which may be intended to be used in or for any such adulteration or mixture; and if on any such search it shall appear that any such meal flour dough or bread so found shall have been so adulterated by the person in whose possession it shall then be, or any alum or other ingredient shall be found which shall seem to have been deposited there in order to be used in the adulteration of meal flour or bread, then and in every such case it shall be lawful for such magistrate or magistrates justice or justices of the peace or officer or officers authorised as aforesaid respectively,

Magistrates or Peace Officers, by their Warrants, may search Bakers' Premises, &c.

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within the limits of their respective jurisdictions to seize and take any meal flour dough or bread which shall be found in any such search and deemed to have been adulterated, and all alum and other ingredients and mixtures which shall be found and deemed to have been used or intended to have been used in or for any such adulteration as aforesaid; and such part thereof as shall be seized by any peace officers authorised as aforesaid, shall, with all convenient speed after seizure, be carried to some magistrate or magistrates justice or justices of the peace within the limits of whose jurisdiction the same shall have been so seized; and if any magistrate or magistrates justice or justices who shall authorise any such seizure to be made in pursance of this Act, or to whom any thing so seized under the authority of this Act shall be brought, shall adjudge that any such meal flour dough or bread so seized has been adulterated by any unwholesome or improper mixture or ingredient put therein, or shall adjudge that any alum or other ingredient or mixture so found as aforesaid have been deposited or kept where so found for the purpose of adulterating meal flour or bread, then and in any such case every magistrate or magistrates justice or justices of the peace is and are hereby required, within the limits of their respective jurisdictions, to dispose of the same as he or they in his or their discretion shall from time to time think proper.

Penalty on Bakers with whom Ingredients for Adulteration shall be found.

VIII. And be it further enacted, That every miller mealman or baker out of the city of *London* and the liberties thereof, and beyond the weekly bills of mortality and ten miles of the *Royal Exchange*, in whose house mill shop stall bakehouse bolting-house pastry warehouse outhouse ground or possession any alum or other ingredient or mixture shall be found, which shall after due examination be adjudged by any magistrate or magistrates justice or justices of the peace to have been deposited there for the purpose of being used in adulterating meal flour or bread, shall on being convicted of any such offence, either by his her or their own confession or by the oath or affirmation as aforesaid of one or more credible witness or witnesses, forfeit and pay on every such conviction any sum of money not exceeding twenty nor less than five pounds, or in default of payment thereof shall, by warrant under the hand and seal or hands and seals of the magistrate or magistrates justice or justices before whom such offender shall be convicted, be committed to the house of correction or some other prison of the city county or place where the offence shall have been committed or the offender or offenders shall be apprehended, there to remain for any time not exceeding twelve nor less than three calendar months from the time of such commitment, unless such penalty shall be sooner paid, as any such magistrate or magistrates justice or justices shall think fit and order; unless the party or parties charged with any such offence shall make it appear to the satisfaction of the magistrate or magistrates justice or justices before whom any such alum or other ingredient or mixture shall be brought, that such alum or other ingredient or mixture was not nor were brought or lodged where the same was or were found or seized with any design or intent to have been put into any meal flour or bread or to have adulterated therewith the purity of any meal flour or bread, but that the same was or were in the place or places in which the same shall have been so found or seized as aforesaid for some other lawful purpose; and that it shall be lawful for the magistrate or magistrates justice or justices before whom any such offender shall be convicted, to cause the offender's name place of abode and offence to be published in some newspaper which shall be printed published or circulated in or near the county division riding or district where the said offence shall be committed, and to defray the expence of publishing the same out of the money to be forfeited as last mentioned, if any shall be paid or recovered.

Obstructing Search for adulterated Meal, &c.

IX. And be it further enacted, That if any person or persons shall wilfully obstruct or hinder any such search as herein-before is authorised to be made, or the seizure of any meal flour or dough or bread or of any alum or other ingredient or mixture which shall be found on any such search, and deemed to have been lodged with an intent to adulterate the

purity or wholesomeness of any meal flour dough or bread, or shall wilfully oppose or resist any such search being made, or the carrying away any such alum or other ingredient or mixture as aforesaid, or any meal flour dough or bread which shall be seized as being adulterated, or as not being made pursuant to this Act, he she or they so doing or offending in any of the cases last aforesaid shall for every such offence, on being convicted thereof, forfeit and pay such sum not exceeding five pounds nor less than fifty shillings, as the magistrate or magistrates justice or justices before whom such offender or offenders shall be convicted shall think fit and order and direct.

Penalty.

X. And be it further enacted, That every baker and seller of bread shall cause to be fixed in some convenient part of his or her shop a beam and scales with proper weights, in order that every person or persons who may purchase any bread of any such baker or seller of bread may, if he she or they shall think proper, require the same to be weighed in his her or their presence; and that if any baker or seller of bread out of the city of *London* and the liberties thereof, and beyond the weekly bills of mortality and ten miles of the *Royal Exchange*, shall neglect to fix such beam and scales in some convenient part of his or her shop, or to provide and keep for use proper weights or whose weights shall be deficient in their due weight, or who shall refuse to weigh any bread purchased in his or her shop in the presence of the party or parties requiring the same, he she or they shall for every such offence forfeit and pay a sum not exceeding five pounds nor less than twenty shillings, as the magistrate or magistrates justice or justices before whom such offender shall be convicted shall order and direct.

Bakers shall keep proper Weights.

Penalty.

XI. Provided always, and be it further enacted, That no master mistress journeyman or other person respectively exercising or employed in the trade or calling of a baker out of the city of *London* and the liberties thereof, and beyond the weekly bills of mortality and ten miles of the *Royal Exchange*, shall on the Lord's day commonly called *Sunday* or any part thereof make or bake any household or other bread rolls or cakes of any sort or kind, or shall on any part of the said day sell or expose to sale or permit or suffer to be sold or exposed to sale any bread rolls or cakes of any sort or kind except to travellers or in cases of urgent necessity; or bake or deliver or permit or suffer to be baked or delivered any meat pudding pie tart or victuals at any time after half-past one of the clock in the afternoon of that day, or in any other manner exercise the trade or calling of a baker or be engaged or employed in the business or occupation thereof save and except as aforesaid, and also save and except so far as may be necessary in setting and superintending the sponge to prepare the bread or dough for the following day's baking; and that no meat pudding pie tart or victuals shall be brought to or taken from any bakehouse during the time of divine service in the church parish hamlet or place where the same is situate nor within one quarter of an hour of the time of commencement thereof; and every person offending against the foregoing regulations or any one or more of them, and being thereof convicted before any magistrate or magistrates justice or justices of the peace of the city county or place where the offence shall be committed within two days from the commission thereof, either upon the view of such magistrate or magistrates justice or justices of the peace or on confession by the party or proof by one or more witness or witnesses upon oath or affirmation as aforesaid, shall for every such offence forfeit and pay and undergo the forfeiture penalty and punishment herein-after mentioned; (that is to say) for the first offence the penalty of five shillings, for the second offence the penalty of ten shillings, and for the third and every subsequent offence respectively the penalty of twenty shillings; and shall moreover on every such conviction bear and pay the costs and expences of the prosecution, such costs and expences to be assessed settled and ascertained by the magistrate or magistrates justice or justices of the peace convicting; and the amount thereof together with such part of the penalty as such magistrate or magistrates justice or justices of the peace shall think proper to the prosecutor or

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prosecutors for loss of time in instituting and following up the prosecution at a rate not exceeding three shillings *per diem*, and be paid to the prosecutor or prosecutors for his and their own use and benefit; and the residue of such penalty to be paid to such magistrate or magistrates justice or justices of the peace within seven days after his or their receipt thereof to be transmitted by him or them to the churchwardens or overseers of the parish or parishes where the offence shall be committed, to be applied for the benefit of the poor thereof; and in case the whole amount of the penalty and of the costs and expences as aforesaid be not paid within three days after the conviction of the offender or offenders, such magistrate or magistrates justice or justices of the peace shall and may by warrant under their respective hands and seals or hand and seal direct the same to be levied and raised by distress and sale of the goods and chattels of the offender or offenders, rendering the overplus if any; or in default or insufficiency of such distress to commit the offender or offenders to the house of correction on a first offence for any time not exceeding fourteen days, and on the second or any subsequent offence for any time not exceeding twenty-one days, unless the whole of the penalty costs and expences be sooner paid and discharged.

No Miller or Baker may act as Justice in the Execution of this Act.

XII. Provided always and be it further enacted, That no person who shall be concerned in the business of a miller mealman or baker corn merchant or dealer in corn or flour shall be capable of acting or shall be allowed to act as a magistrate or justice of the peace under this Act or in putting in execution any of the powers in or by this Act granted; and if any miller mealman or baker shall presume so to do he or they so offending in the premises shall for every such offence forfeit and pay the sum of fifty pounds to any person or persons who shall inform or sue for the same, to be recovered in any of his Majesty's courts of record at *Westminster* by action of debt bill plaint or information wherein no essoign wager of law or more than one imparlance shall be allowed.

All Offences against this Act may be heard in a summary way.

XIII. And for the better and more easy recovery of the several penalties and forfeitures to be incurred under this Act and the powers herein contained, be it further enacted, That it shall and may be lawful for the mayor or any alderman of any city and to and for any other of his Majesty's justices of the peace or any of them within their respective counties divisions cities towns corporate liberties or jurisdictions beyond the city of *London* and the liberties thereof, and beyond the weekly bills of mortality and ten miles of the *Royal Exchange*, to hear and determine in a summary way all offences committed against the true intent and meaning of this Act, and for that purpose to summon before them or any of them within their respective jurisdictions any party or parties accused of being an offender or offenders against the true intent and meaning of this Act; and in case the party accused shall not appear on such summons or offer some reasonable excuse for his default, then upon oath or affirmation as aforesaid by any credible witness or witnesses of any offence committed contrary to the true intent and meaning of this Act, any such magistrate or justice shall issue his warrant or warrants for apprehending the offender or offenders within the jurisdiction of any such magistrate or justice; and upon the appearance of any party or parties accused, or in case he she or they shall not appear on notice being given to or left for him her or them at his her or their usual place of abode, or if he she or they cannot be apprehended on a warrant granted against him her or them as is herein-before directed, then and in every such case any such magistrate or justice is and are hereby authorised and required to proceed to make inquiry touching the matters complained of, and to examine any witness or witnesses who shall be offered on either side on oath or affirmation as aforesaid, and which oath and affirmation every such magistrate and justice is and are hereby authorised and required to administer; and after hearing the parties who shall appear and the witnesses who shall be offered on either side, such magistrate or justice shall convict or acquit the party or parties accused; and if the penalty or money forfeited on any such conviction shall not be paid within the space of twenty-four hours after any such conviction, every such magistrate or

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justice shall thereupon issue a warrant or warrants under his hand and seal directed to any peace officer or officers within their respective jurisdictions, and thereby require him or them to make distress of the goods or chattels of the offender or offenders within such their respective jurisdictions to satisfy such penalty or money forfeited and the costs of the prosecution and distress; and if any offender should convey away his goods out of the jurisdiction of any such magistrate or justice before whom he or she was convicted or so much thereof that the penalty or money forfeited cannot be levied, then some magistrate or justice within whose jurisdiction the offender shall have removed his goods shall back the warrant granted by any such magistrate or justice as aforesaid, and thereupon the penalty forfeited shall be levied on the offender's goods and chattels by distress and sale; and if within five days from the distress being taken the penalty or money forfeited and costs shall not be paid, the goods seized shall be appraised and sold, rendering the overplus (if any) after deducting the penalty or forfeitures and the costs and charges of the prosecution distress and sale to the owner or owners thereof, which charges shall be ascertained by the magistrate or magistrates justice or justices before whom any such offender or offenders shall have been so convicted, or by the magistrate or justice who backed the warrant if then alive, and if not by some other magistrate or justice of the city county division or place in which the offender shall have been convicted, on application for that purpose to be made to any such magistrate or justice; and for want of such distress then every such magistrate or justice, within whose respective jurisdiction any such offender or offenders shall reside or be, shall on the application of any prosecutor or prosecutors and proof on oath or affirmation as aforesaid made of the conviction and non-payment of the penalty and charges, by warrant under his hand and seal commit every such offender or offenders to the common gaol or house of correction of the city county division or place where such offender or offenders shall be found, there to remain for the space of two calendar months from the time of such commitment, unless after such commitment payment shall be made of the said penalty or forfeiture and costs and charges before the expiration of the said two calendar months; and all such penalties and forfeitures when recovered shall be paid one half to the informer and the other half shall be paid to the magistrate or magistrates justice or justices of the peace, and within seven days after his or their receipt thereof to be transmitted by him or them to the churchwardens or overseers of the parish or parishes where the offence shall be committed, there to be applied for the benefit of the poor thereof.

Penalties levied by Distress and Sale.

Application of Penalties.

XIV. And be it further enacted, That if it shall be made out by the oath (or affirmation as aforesaid) of any credible person or persons to the satisfaction of any magistrate or magistrates justice or justices that any person or persons within the jurisdiction of any such magistrate or magistrates justice or justices is or are likely to give of offer material evidence on behalf of the prosecutor of any offender or offenders against the true intent and meaning of this Act, or on behalf of the person or persons accused, and will not voluntarily appear before such magistrate or magistrates justice or justices to be examined and give his her or their evidence upon oath or affirmation as aforesaid concerning the premises, every such magistrate or magistrates justice or justices is and are hereby authorised and required to issue his or their summons to convene every such witness and witnesses before any such magistrate or magistrates justice or justices at such seasonable time or times as in such summons shall be fixed; and if any person or persons so summoned shall neglect or refuse to appear (after having been paid or tendered a reasonable sum for his her or their costs charges and expences) at the time by such summons appointed, and no just excuse shall be offered for such neglect or refusal, then after proof upon oath or affirmation as aforesaid of such summons having been duly served upon the party or parties so summoned, every such magistrate and magistrates justice and justices is and are hereby authorised and required to issue his or their warrant or warrants under

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his hand and seal or their hands and seals to bring every such person or persons before any such magistrate or magistrates justice or justices; and on the appearance of such person or persons before such magistrate or magistrates justice or justices every such magistrate or justice is and are hereby authorised and empowered to examine upon oath (or affirmation) every such witness; and if any such person or persons on his her or their appearance, or on being brought before any such magistrate or magistrates justice or justices shall refuse to be examined upon oath (or affirmation) concerning the premises, without offering any just excuse for such refusal, any such magistrate or magistrates justice or justices within the limits of his or their jurisdiction may, by warrant under his hand and seal or their hands and seals, commit any person or persons so refusing to be examined to the public prison of the city county division liberty or place in which the person or persons so refusing to be examined shall be, there to remain for any time not exceeding fourteen days as any such magistrate or magistrates justice or justices shall order and direct.

Persons refusing may be committed.

Persons forswearing guilty of Perjury.

XV. And be it further enacted, That if any person or persons who shall take any oath (or affirmation) by this Act directed to be taken, or be examined on oath (or affirmation) by virtue or in the execution of this Act, shall wilfully forswear or shall falsely affirm himself herself or themselves, every such person or persons shall be subject and be liable to be prosecuted for perjury by indictment or information according to due course of law; and if convicted thereof shall be subject and liable to the like pains and penalties which persons convicted of wilful and corrupt perjury are subject and liable to.

Form of Conviction.

XVI. And be it further enacted, That the magistrate or magistrates justice or justices before whom any person or persons shall be convicted in manner prescribed by this Act shall cause every such conviction to be drawn up in the form or the effect following; (that is to say),

'BE it Remembered, That on this day
' to wit. of in the year of the
' reign of his present Majesty, *A. B.* is convicted before
' Majesty's Justices of the Peace for the said county
' of *or*, for the division of the said
' county of *or*, for the city liberty or town
' [*as the case may be*], for and do adjudge him her
' or them [*as the case may be*] to forfeit and pay for the same the sum
' of . Given
' under hand and seal, the day and year aforesaid.'

Conviction not removable.

XVII. And be it further enacted, That no certiorari letters of advocation or of suspensation shall be granted to remove any conviction or other proceedings had thereon in pursuance of this Act.

Appeal to Quarter Sessions.

XVIII. Provided always, and it is hereby further enacted, That if any person or persons convicted of any offence punishable by this Act shall think him her or themselves aggrieved by the judgment of the magistrate or magistrates justice or justices before whom he she or they shall have been convicted, such persons shall have power from time to time to appeal to the justices at the next general or general quarter sessions of the peace which shall be held for the city county division liberty town or place where such judgment shall have been given, and that the execution of such judgment shall in such case be suspended, the person so convicted entering into a recognisance at the time of such conviction, or within twenty-four hours after the same shall be made, with two sufficient sureties in double the sum which such person shall have been adjudged to pay or forfeit, upon condition to prosecute such appeal with effect, and to be forthcoming to abide the judgment and determination of the justices at their said next general or quarter sessions; which recognisance the magistrate or magistrates justice or justices before whom such conviction shall be made is and are hereby empowered and required to take; and the justices in the said general or general quarter sessions are hereby authorised and required to hear and finally determine the matter of every such appeal, and to award such costs as to them shall

appear just and reasonable to be paid by either party; and if upon hearing the said appeal the judgment of the magistrate or magistrates justice or justices before whom the appellant or appellants shall have been convicted shall be confirmed, such appellant or appellants shall immediately or within twenty-four hours afterwards pay down the sum he she or they shall have been adjudged to have forfeited, together with such costs as the said justices in their said general or general quarter sessions shall award to be paid to the prosecutor or informer for defraying the expences sustained by reason of any such appeal; and in default of the appellant's paying the same, any two justices or any magistrate or justice of the peace, having jurisdiction in the place into which any such appellant or appellants shall escape or where he she or they shall reside, shall and may by warrant under their hands and seals or his hand and seal commit any such appellant or appellants to the common gaol of the city county division or place where he she or they shall be apprehended, until he she or they shall make payment of such penalty and of the costs and charges which shall be adjudged on the conviction; but if the appellant or appellants in any such appeal shall make good his her or their appeal and be discharged of the said conviction, reasonable costs shall be awarded to the appellant or appellants against such informer or informers who would (in case of such conviction) have been entitled to a moiety of the penalty to have been recovered as aforesaid; and which costs shall and may be recovered by the appellant or appellants against any such informer or informers in like manner as costs given at any general or general quarter sessions are recoverable: Provided always, that no person shall be detained in prison for any such offence for a greater length of time than two calendar months.

If Conviction shall happen within Six Days, Appeal may be made to the Sessions following.

XIX. Provided always and be it further enacted, That if any such conviction shall happen to be made within six days before any general or general quarter sessions of the peace shall be held for the city county division town corporate borough or place where such conviction shall have been made, then the party or parties who shall think him her or themselves aggrieved by any such conviction shall and may, on entering into recognisance in manner and for the purposes before directed, be at liberty to appeal either to the then next or next following general or general quarter sessions of the peace which shall be held for any such county division city town corporate borough liberty or place where any such conviction shall have been made.

Limitation of Actions.

XX. And be it further enacted, That every action or suit which shall be brought or commenced against any magistrate or magistrates justice or justices or any peace officer or officers for any matter or thing done or committed by virtue of or under this Act shall be commenced within six months after the fact committed and not afterwards, and shall be laid or brought in the city county or place where the matter in dispute shall arise and not elsewhere; and that the statute made in the twenty-fourth year of the reign of King *George* the Second, intituled *An Act for rendering Justices of the Peace more safe in the Execution of their Office, and for indemnifying Constables and others acting in obedience to their Warrants*, so far as the said Act relates to the rendering the justices more safe in the execution of their office, shall extend and be construed to extend to the magistrate and magistrates justice and justices of the peace acting under the authority or in pursuance of this Act; and that no action or suit shall be had or commenced against, nor shall any writ be issued out or copy of any writ be served upon any peace officer or officers for any thing done in the execution of this Act until seven days after notice in writing shall have been given to or left for him or them at his or their usual place of abode by the attorney for the party intended to commence such action; which notice in writing shall contain the name and place of abode of the person intending to bring such action and also of his attorney and likewise the cause of action or complaint; and any peace officer or officers shall be at liberty and may by virtue of this Act, at any time within seven days after any such notice shall have been given to or left for him, tender or cause to be tendered any sum or sums of money as amends for the injury

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Geo. IV.
c. 50.

complained of to the party complaining or to the attorney named in such notice; and if the same is not accepted of, the defendant or defendants in any such action or actions may plead such tender in bar of such action or actions, together with the general issue or any other plea with leave of the court in which the action shall be commenced, and if upon issue joined on such tender the jury shall find amends tendered to have been sufficient, they shall find a verdict for the defendant or defendants; and in every such case, or if the plaintiff shall become nonsuit or discontinue his action, or if judgment shall be given for the defendant or defendants upon demurrer, or if any action or suit shall be brought after the time limited by this Act for bringing the same, or shall be brought in any other county or place than as aforesaid, then and in every such case the jury shall find a verdict for the defendant or defendants, and the defendant or defendants shall be entitled to his or their costs; but if the jury shall find that no such tender was made or that the amends tendered were not sufficient, or shall find against the defendant or defendants or any plea or pleas by him or them pleaded, they shall then give a verdict for the plaintiff and such damages as they shall think proper; and the plaintiff shall thereupon recover his costs against every such defendant or defendants.

General Issue.

XXI. And be it further enacted, That if any action or suit shall be commenced against any other person or persons than a justice or other peace officer for any thing done in pursuance of this Act, the defendant or defendants in every such action or suit may plead the general issue and give this Act and the special matter in evidence at any trial to be had thereupon, and that the same was done in pursuance and by the authority of this Act; and if it shall appear to have been so done, or if a verdict shall be recorded for the defendant or defendants, or if the plaintiff or plaintiffs shall be nonsuited or discontinue his her or their action after the defendant or defendants shall have appeared, or if a judgment shall be given upon a verdict or demurrer against the plaintiff or plaintiffs, the defendant or defendants in every such action shall and may recover treble costs and have the like remedy for the same as any defendant or defendants hath or have in other cases by law for the recovery of his her or their costs.

Treble Costs.

Limiting the Commencement of Prosecutions. Persons convicted not liable to other Prosecution.

XXII. Provided always, and be it further enacted, That no person shall be convicted of any offence under this Act, unless the information in order for such conviction shall be exhibited within fourteen days after the offence committed (except in cases of perjury); and that no person who shall be prosecuted to conviction for any offence done or committed against this Act shall be liable to be prosecuted for the same offence under any other law.

Application of Penalties.

XXIII. And be it further enacted, That all penalties and forfeitures by this Act inflicted, the application of which is not herein-before directed, shall, when recovered or paid, go and be disposed of in manner following (that is to say), one moiety thereof where any offender or offenders shall be convicted either by his her or their confession or by the oath (or affirmation) of one or more credible witness or witnesses shall go and be paid to the person or persons who shall inform against and prosecute to conviction any such offender or offenders, and the other moiety thereof, or in case there be no such person informing, then the whole thereof shall go and be paid to the churchwardens and overseers of the poor of the parish or parishes for the use of the poor of the said parish wherein such offence shall be committed, in such manner as the said churchwardens and overseers of the poor shall in his or their discretion think fit.

Saving the Rights of the Universities.

XXIV. Provided always and be it further enacted, That neither this Act or any thing herein contained shall extend or be construed to extend to prejudice the ancient right of custom of the University of *Oxford* or of *Cambridge* or either of them, or their or either of their clerks of the market, or the practice within the several jurisdictions of the said universities or either of them used to set ascertain and appoint the assize and weight of all sorts of bread to be sold or exposed to sale within their several jurisdictions; but that they and every of them shall and may

severally and respectively, from time to time as there shall be occasion, set ascertain and appoint within their several and respective jurisdictions the assize and weight of all sorts of bread to be sold or exposed to sale by any baker or other person whatsoever within the limits of their several jurisdictions, and shall and may inquire into and punish any breach thereof fully and freely in all respects as they used to do and as if this Act had never been made; any thing herein contained to the contrary thereof notwithstanding.

Commencement of Act.

XXV. And be it further enacted, That this Act shall commence and take effect from and immediately after one calendar month from the passing thereof.

Public Act.

XXVI. And be it further enacted, That this Act shall be deemed and taken to be a public Act, and shall be judicially taken notice of as such by all judges justices and others without being specially pleaded.

PART VI.

CLASS VI.

Bridges.

[No. I.] 22 Henry VIII. c. 5.—For Bridges and Highways.

22 Henry VIII. c. 5.
13 Co. 33.
Poph. 192
2 Inst. 700
Justices of Peace may award Process against them who ought to repair Bridges. This Act is enforced by 1 Ann, St. 1. c. 18. so far as not altered by that Statute.

BE it enacted by the King our Sovereign Lord, and the Lords Spiritual and Temporal and the Commons in this present Parliament assembled, and by authority of the same, That the justices of peace in every shire of this realm franchise city or borough, or four of them at the least, (1.) whereof one to be of the *quorum*, shall have power and authority to inquire hear and determine in the King's general sessions of peace of all manner of annoyances of bridges broken in the highways to the damage of the King's liege people, and to make such process and pains upon every presentment afore them for the reformation of the same, against such as owen to be charged for the making or amending of such bridges, as the King's justices of his bench use commonly to do, or as it shall seem by their discretions to be necessary and convenient for the speedy amendment of such bridges.

II. 'And where in many parts of this realm it cannot be known and 'proved what hundred riding wapentake city borough town or parish nor 'what person certain or body politick ought of right to make such 'bridges decayed, by reason whereof such decayed bridges for lack of 'knowledge of such as owen to make them for the most part lie long 'without any amendment to the great annoyance of the King's subjects:'

III. For the remedy thereof be it enacted by authority aforesaid, That in every such case the said bridges, if they be without city or town corporate, shall be made by the inhabitants (2.) of the shire or riding within the which the said bridge decayed shall happen to be; and if it be within any city or town corporate, then by the inhabitants of every such city or town corporate wherein such bridges shall happen to be; and if part of any such bridges so decayed happen to be in one shire riding city or town corporate, and the other part thereof in another shire riding city or town corporate, or if part be within the limits of any city or town corporate and part without, or part within one riding and part within another; that then and in every such case the inhabitants of the shires ridings cities or towns corporate shall be charged and chargeable to amend make and repair such part and portion of such bridges so decayed as shall lie and be within the limits of the shire riding city or town corporate, wherein they be inhabited at the time of the same decays. (1.)

(1.) If the Bridge be within a Franchise which hath not four Justices and a Sessions of its own, the Justices of the County shall inquire; but if the Franchise be a County of itself, and hath not four Justices, it is not within the Statute, but is left to the remedy at Common Law: 2 Inst. 702.

(2.) In the reading upon this Statute, 2 Inst. 702. it is shewn that the term *inhabitants* is referrible to the Occupiers of Tenements, and that Corporations are chargeable for the Roads in their own Occupation; but by Statute 12. G. II. c. 29. the charge of repairing Bridges is to be included in the general County Rate.

(3.) The Inhabitants of a County are bound to repair every public Bridge within it; unless when indicted for the now repair of it they can shew by their plea that some other person is liable; and every Bridge in a highway is by the Stat. 22 H. 8. c. 5. deemed a public Bridge for this purpose. Therefore, where Queen Anne, in 1708, for her greater convenience, built a bridge on the Thames at Datchet, in the common highway leading from London and Windsor, in lieu of an ancient ferry which belonged to the Crown, and she and her successors maintained and repaired the Bridge till 1796, when, being in part broken down, the whole was removed, and the materials converted to the use of the King, by whom the ferry was

No. I.
22 H. VIII. c. 5.

IV. And be it further enacted, That in every such case where it cannot be known and proved what persons lands tenements and bodies politick owen to make and repair such bridges, that for speedy reformation and amending of such bridges the justices of peace within the shires or ridings wherein such decayed bridges been out of cities and towns corporate, and if it be within cities or towns corporate then the justices of peace within every such city or town corporate or four of the said justices at the least, whereof one to be of the *quorum*, shall have power and authority within the limits of their several commissions and authorities to call before them the constables of every town and parish being within the shire riding city or town corporate, as well within liberty as without, wherein such bridges or any parcel thereof shall happen to be, or else two of the most honest inhabitants within every such town or parish in the said shire riding city or town corporate, by the discretion of the said justices of peace or four of them at the least, whereof one to be of the *quorum*; and at and upon the appearances of such constables or inhabitants the said justices of peace or four of them, whereof one to be of the *quorum*, with the assent of the said constables or inhabitants, shall have power and authority to tax and set every inhabitant in every such city town or parish within the limits of their commissions and authorities to such reasonable aid and sum of money as they shall think by their discretions convenient and sufficient for the repairing re-edifying and amendment of such bridges; and after such taxation made the said justices shall cause the names and sums of every particular person so by them taxed to be written in a roll indented: And shall also have power and authority to make two collectors of every hundred for collection of all such sums of money by them set and taxed; which collectors receiving the one part of the said roll indented under the seals of the said justices shall have power and authority to collect and receive all the particular sums of money therein contained, and to distrain every such inhabitant as shall be taxed and refuse payment thereof in his lands goods and chattels, and to sell such distress, and of the sale thereof retain and perceive all the money taxed, and the residue (if the distress be better) to deliver to the owner thereof; and that the same justices or four of them within the limits of their commissions and authorities, shall also have power and authority to name and appoint two surveyors, which shall see every such decayed bridge repaired and amended from time to time as often as need shall require, to whose hands the said collectors shall pay the said sums of money taxed and by them received; and that the collectors and surveyors and every of them and their executors and administrators and the executors and administrators of them and every of them from time to time shall make a true declaration and accompt to the justices of peace of the shire riding city or town corporate wherein they shall be appointed collectors or surveyors, or to four of the same justices, whereof one to be of the *quorum*, of the receipts payments and expences of the said sums of money: And if they or any of them refuse that to do, that then the same justices of peace or four of them from time to time by their discretions shall have power and authority to make process against the said collectors and surveyors and every of them their executors and administrators and the executors and administrators of every of them by attachments under their seals returnable at the general sessions of peace, and if they appear then to compel them to account as is aforesaid; or else if they or any of them refuse that to do, then to commit such of them as shall refuse to ward,

The Justices may tax the Inhabitants with the Assent of the Constables.

By 1 Ann, st. 1. c. 18. Sessions of the Peace may tax the several Townships, &c. See 2 Inst. 704. Doug. 180.

Two Collectors of every Hundred.

The Justices shall appoint Two who shall repair the Bridge.

The Collectors and Surveyors shall accompt to the Justices.

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re-established as before; the Court held that the Inhabitants of the County of Bucks, who, in answer to an indictment for the non-repair of that part of the Bridge lying in the County of Bucks, pleaded these matters, and shewed that the Bridge was a common public Bridge, were nevertheless bound to rebuild and repair it, Rex v. Buckinghamshire (Inhab.) 12 E. R. 192.

A new and substantive Bridge of public utility, built within the limit of one County, and adopted by the Public, is reparable by the Inhabitants of that County, although it be built within 300 feet of an old Bridge reparable by the Inhabitants of another County, who were bound in course under the Statute 22 H. 8. c. 5. to maintain such 300 feet of road, though lying in the other County. Rex v. Devon (Inhab.) 14 E. R. 477.

No. I.
22 H. VIII. c. 5.

there to remain without bail or mainprize till the said declaration and account be truly made.

V. And where any bridge or bridges lien in one shire or riding, and such persons inhabitants bodies politick lands or tenements which owen to be charged to the making and amending of such bridges lien and abiden in another shire or riding, or where such bridges been within any city or town corporate and the persons inhabitants bodies politick lands or tenements that owen to make or repair any such bridges lien and been out of the said cities and towns corporate; Be it enacted, That in every such case the justices of peace of the shire city or town corporate within the which such decayed bridges or any part thereof shall happen to be shall have power to inquire hear and determine all such annoyances, being within the limits of their commissions or authorities; and if the annoyance be presented, then to make process into every shire within this realm against such as owen to make or amend any such bridges so presented before them to be decayed to the annoyance and let of the passage of the King's subjects, and to do further in every behalf in every such case as they might do by authority of this Act in case that the persons or bodies politick lands or tenements which owen to be charged to the amending or making of such bridges or any part thereof were in the same shire riding city or town corporate where such annoyance shall happen to be. And that all sheriffs and bailiffs of liberties and franchises shall truly serve and execute such process as shall come to their hands from the said justices of peace afore whom any presentment shall be had for any such annoyance according to the tenor and effect of the said process to them directed, without favour affection or corruption, upon pain to make such fine as shall be set upon them or any of them by the discretion of the said justices.

The Justices may make Process into every Shire against Offenders.

Sheriffs, &c. shall serve Process upon the Offenders.

The Five Ports excepted.

VI. Provided always, That this Act or any thing therein contained be not prejudicial to the liberties of the Five Ports or members of the same. And for reformation of annoyances of bridges within the said ports and members.

VII. Be it enacted by authority of this present Parliament, That the warden mayors and bailiffs elected and jurates of the same ports, and every of them, have power and authority to inquire hear and determine all manner of common annoyances of bridges within the same ports and members, and to make such process pains taxations and all other things within the same ports and members, as the justices of peace may do in other shires or places out of the same ports by virtue and authority of this present Act in every behalf.

Allowance made to the Surveyors and Collectors.

VIII. And be it further enacted by the authority aforesaid, That the justices of peace or four of them shall have full power and authority to allow such reasonable costs and charges to the said surveyors and collectors as by their discretions shall be thought convenient.

IX. 'Forasmuch that albeit bridges decayed were amended and repaired according to the tenor of this Act, yet nevertheless if speedy remedy for the amendment of the ways next adjoining to every of the ends of such bridges should not be had and made, the King's subjects should take little or none avail or commodity in many parts of this realm by the making of the bridges:' In consideration whereof be it enacted by the King our Sovereign Lord and the Lords Spiritual and Temporal and the Commons in this present Parliament assembled, and by authority of the same, That such part and portion of the highways in every part of this realm, as well within franchise as without, as lie next adjoining to the ends of any bridges within this realm, distant from any of the said ends by the space of three hundred foot, (4.) be made repaired and amended as often as need shall require; and that the justices of the peace in every shire of this realm franchise city or borough, or four of them at the least, whereof one to be of the *quorum*, within the limits of their commissions and authorities shall have power and authority to in-

(4.) The obligation (established by several authorities) of a County to repair a new-erected Bridge of public utility, extends to the 300 feet at the ends. R. v. West Riding of York. 7 E. 588.

quire hear and determine in the King's general sessions of peace all manner of annoyances of and in such highways so being and lying next adjoining to any ends of bridges within this realm, distant from any one of the ends of such bridges three hundred foot, and to do in every thing and things concerning the making repairing and amending of such highways and every of them, in as large and ample manner as they might and may do to and for the making repairing and amending of bridges by virtue and authority of this present Act.

No. I. 22 H. VIII. c. 5.

Farther Provisions, *see Index, tit.* Bridges.

[No. II.] 1 Anne, Stat. 1. c. 18.—An Act to explain and alter the Act made in the Two-and-twentieth Year of King *Henry* the Eighth, concerning repairing and amending of Bridges in the Highways: And for repealing an Act made in the Twenty-third Year of Queen *Elizabeth*, for the re-edifying of *Cardiffe* Bridge in the County of *Glamorgan*: And also for changing the Day of Election of the Wardens and Assistants of *Rochester* Bridge.

'WHEREAS by an Act of Parliament in the two-and-twentieth year of the reign of King HENRY the Eighth, intituled *An Act concerning repairing and amending of Bridges in the Highways*, it is amongst other things therein enacted, That in every case where it cannot be known and proved what persons lands tenements and bodies politick ought to make and repair such bridges, that for speedy reformation and amending of such bridges the justices of the peace within their several counties shires ridings and divisions cities and towns corporate, or any four of them, whereof one to be of the *quorum*, shall within the limits of their several commissions call before them the constables of every town and parish, or else two of the most honest inhabitants of every town and parish, and with the assent of the said constables or inhabitants shall tax and set every inhabitant in such city town and parish to such reasonable aid and sums of money as they shall think by their discretions convenient for the repairing of such bridges, and after such taxation made shall cause the names and sums of every particular person so by them taxed to be written in a roll indented, one part whereof is to be delivered under the hands and seals of the said justices to two collectors appointed by the said justices for every hundred, who are thereby empowered to collect the same; which method and manner of taxing and collecting the said money for repair of decayed bridges and the highways thereunto adjoining, having by long experience been found very troublesome burthensome and chargeable to the several counties cities towns corporate ridings and divisions: And whereas in many places within this kingdom more money than is necessary for the repair of such bridges hath been taxed and collected, or the money which hath been so taxed and collected hath been misemployed, and not laid out in the repair of such bridges as was intended:' For remedy of all which mischiefs and inconveniencies for the future, May it please your most excellent Majesty that it may be enacted; and be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That all and every the clauses matters and things in the said Act of the two-and-twentieth year of the reign of the said King HENRY the Eighth not hereby altered, shall be and continue in full force and virtue to all intents constructions and purposes whatsoever, relating to the repairing of decayed bridges and the highways thereunto adjoining.

1 Anne, Stat. 1. c. 18.

22 H. 8. c. 5. concerning the amending of Bridges,

further continued.

II. And be it further enacted by the authority aforesaid, That for the Money for Repair of decayed Bridges, Justices of Peace may assess every Town, &c. in Proportion.

For collecting

No. II.
1 Anne, st. 1. c. 18.

more easy taxing and collecting of the money for the repair of decayed bridges and that the same may be duly applied to the purposes for which it is intended, the justices of the peace within the several limits of their commissions shall at their general or quarter-sessions of the peace, from and after the first day of *May* which shall be in the year of our Lord one thousand seven hundred and two, have full power and authority, upon due presentment to them made that any bridge within their respective commissions or authorities is out of repair, and which by them hath usually or ought to have been repaired and maintained, to assess upon every town parish or place within their respective commissions, in proportions upon each respective town and parish as they usually have been assessed towards the repair of bridges; which money so assessed as aforesaid shall be levied and collected by the respective constables of each parish township hamlet or vill, or by such other person and persons and in such manner as the said justices by their order at such sessions shall in that behalf direct and appoint, and the money thereby raised shall (by such constables or other persons so as aforesaid by them collected) be paid over by them to the high constables of every hundred, in any such county city riding or division, in six days after they shall have received the same, and the high constables shall and are hereby required in ten days after their receipt to pay the same into the hands of such person and persons as the said justices by their order at such sessions shall direct and appoint to be treasurers and receivers of the same, and the money thereby raised shall be employed and accounted for according to the orders and directions of the said justices for and towards the amending of such decayed bridges and the highways at the end of the said bridges, from time to time as need shall require; and the said assessments shall be levied by distress and sale of the goods of every person so assessed, not paying the same within ten days after demand, rendering the overplus of the value of the goods so distrained to the owner and owners thereof, the necessary charges of making and selling such distress being first deducted.

Assessments how to be levied, &c.

Treasurers to be appointed and Monies how employed.

On Nonpayment, to be levied by Distress.

III. And to the end that the money which is hereby intended to be assessed and levied may be duly collected paid and applied to the several purposes for which it is intended, Be it further enacted by the authority aforesaid, That every high constable churchwarden overseer of the poor or petty constable or other person that shall neglect to assess collect or pay the money hereby intended to be raised, as is herein-before directed, shall for every such offence forfeit the sum of forty shillings; and every treasurer that shall pay any money but by order of such justice of the peace at such sessions (which order the said justices are hereby required and commanded to make only for the building repairing or amending such bridges and the highways at the end of such bridges as aforesaid) shall for every such offence forfeit the sum of five pounds.

Penalty on Constable, &c.

'IV. And whereas upon presentments and indictments for not repairing such bridges and the highways at the end of such bridges, the fines imposed and set upon such presentments and indictments, and other fines and issues for not repairing building and amending such bridges and the highways at the end of such bridges, are returned into the Court of *Exchequer* or other Courts;' Be it therefore further enacted by the authority aforesaid, That no fine issue penalty or forfeiture shall hereafter be returned into the Court of *Exchequer* or other court, but shall be levied and paid into the hands of the treasurer or treasurers so as aforesaid appointed by the said justices, to be accounted for by the said treasurer, and to be applied by the said justices towards the building repairing and amending such bridges, and the highways at the ends of such bridges, and to no other end or purpose whatsoever.

Fines, &c. to be paid to the Treasurer.

V. And be it enacted by the authority aforesaid, That all matters concerning the repairing and amending of the bridges and highways herein-before mentioned shall be determined in the county where they lie, and not elsewhere; and that no presentment or indictment for not repairing such bridges or the highways at the end of such bridges

Matters concerning Repair of Bridges, &c. where to be determined.

shall be removed by *certiorari* out of the said county into any other court (5)

No. II.

1 Anne, st. 1. c. 18.

VI. And be it further enacted by the authority aforesaid, That the said justices of the peace at such general quarter sessions as aforesaid shall have full power and authority to allow such persons concerned in the execution of this present Act any sum not exceeding three pence in the pound.

Justices to allow 3*d.* in the Pound, &c.

VII. And be it further enacted by the authority aforesaid, That if any action or suit shall be hereafter commenced or prosecuted against any person or persons by this Act authorised to put the same in execution, every person or persons so sued may plead the general issue, and give this Act or the said recited Act made in the two-and-twentieth year of the reign of King HENRY the Eighth and the special matter in evidence; and if the plaintiff shall become nonsuit, or forbear further prosecution, or suffer discontinuance, or if a verdict pass against him or her, the said defendant and defendants shall recover his and their double costs, for which he and they shall have the like remedy as in cases where costs by law are given to defendants

General Issue.

Double Costs.

VIII Provided always, That this Act nor any thing therein contained shall excuse or discharge any particular persons estates or places from repairing any bridge which they have heretofore usually repaired.

Persons and Things exempted.

IX And be it further enacted by the authority aforesaid, That all the penalties and forfeitures incurred by this Act shall be applied towards the repairing the said bridges and highways at the ends of the same.

Penalties how to be levied.

[X. 23 Eliz c. 11 relating to Cardiffe Bridge, repealed.]

[XI. Cardiffe Bridge deemed a common Bridge.—How it shall be repaired]

[XII. Orders heretofore made not be annulled]

' XIII. And whereas many private persons or bodies politick or corporate are of right obliged to repair such decayed bridges and the highways thereunto adjoining, but because the inhabitants of the county riding or division in which such decayed bridge or highways lie have not been allowed, upon informations or indictments brought against such person or persons bodies politick or corporate for not repairing such decayed bridges and the highways thereunto adjoining, by the judges before whom such information or indictment is to be tried to be legal witnesses,' Be it enacted and declared, That in all informations or indictments to be brought and tried in any of her Majesty's Courts of Record at *Westminster*, or at the assizes or quarter sessions of the peace, the evidence of the inhabitants being credible persons, or any of them, of the town corporation county riding or division, in which such decayed bridge or highway lies, shall be taken and admitted in all such cases in the courts aforesaid, any custom rule order or usage to the contrary notwithstanding.

Evidence of Inhabitants to be taken in Informations.

[XIV. Wardens, &c of Rochester Bridge to be chosen annually on Friday after Easter Week, and enjoy the same power]

[No. III.] 14 George II. c. 33.—An Act to supply some Defects in the Laws for repairing and rebuilding County Bridges, for repairing, enlarging, erecting and providing Houses of Correction, and for passing Rogues and Vagabonds.

14 George II. c. 33.

' WHEREAS it does and may happen that when county bridges are to be rebuilt and repaired, a piece or parcel of ground thereto adjoining may be of great use or service, either for enlarging such bridges or more commodiously rebuilding them: And whereas there is no power given by the laws in being for the rebuilding or repairing of

(5.) An Indictment for not repairing a County Bridge may be removed by Certiorari at the instance of the prosecutor, notwithstanding the general words of Stat. 1 Ann, c. 18. § 5, that no such indictment shall be removed by Certiorari. Rex v. Cumberland (Inhab.) 6 T. R. 194. Affirmed in Error in Dom. Proc. 3 B. & P. 354.

No. III.
14 Geo. II. c. 33.

13 Geo. II. c. 24.

'county bridges to the justices of the peace to purchase any such pieces 'or parcels of ground: And whereas by an Act made in the thirteenth 'year of the reign of his present Majesty, intituled *An Act for the amending 'and enforcing the Laws relating to Rogues Vagabonds and other idle and 'disorderly Persons, and for reducing the same into one Act of Parliament; 'and also for amending the Laws for erecting providing and regulating 'Houses of Correction;* it is (amongst other things) enacted, That upon 'the presentment of the grand jury at the assizes great session or general 'gaol delivery held for any county or liberty that there is no house of 'correction, and that it will be necessary to provide one or more house 'or houses of correction in such county or liberty, or that the house or 'houses of correction in any such county or liberty is or are not suffi-'cient and want to be enlarged; the justices of the peace at their general 'or quarter sessions shall have power to build erect or enlarge one or 'more fit and convenient house or houses of correction, or to purchase 'one or more convenient house or houses for that purpose, or to purchase 'land to erect such house or houses of correction upon, and to make a 'convenient backside or backsides outlet or outlets thereto: And whereas 'in some counties and liberties where it is necessary to have a house or 'houses of correction there is or may be no assize great session or general 'gaol delivery, and in consequence there can be no presentment of such 'grand jury, so that in such cases the said Act is rendered ineffectual;' Therefore for the better repairing and rebuilding county bridges and for supplying the defects of the said recited Acts, so far as the same relates to the repairing enlarging building and providing houses of correction, Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the twenty-fourth day of *June* one thousand seven hundred and forty-one, the justices of the peace of any county city riding liberty or division at their general sessions or general quarter sessions assembled, or the major part of them, shall have power and are hereby authorised to purchase of or agree or contract with any person or persons bodies politick or corporate for any piece or parcel of land adjoining or near to any county bridge within the limits of their respective commissions for the more commodious enlarging or convenient rebuilding the same; (6.) which pieces or parcels of land shall not exceed one acre in the whole for any such bridge, and shall from time to time be paid for by the respective county treasurers out of any monies raised or to be raised by virtue of an Act made in the twelfth year of the reign of his present Majesty, intituled *An Act for the more easy assessing collecting and levying of County Rates;* such treasurers being thereunto authorised by orders under the hands and seals of the respective justices of the peace at their general sessions or general quarter sessions or the major part of them; which lands so purchased shall be conveyed to such person or persons as the said justices of the peace at their general sessions or general quarter sessions, or the major part of them, shall respectively appoint, in trust and for the uses and purposes of enlarging or rebuilding such bridges respectively.

Justices of Quarter Sessions may purchase Lands to build County Bridges.

Concerning Bridges, see farther 29 Geo. II. c. 40. 31 Geo. II. c. 20.

and have Power to enlarge Houses of Correction.

II. And be it further enacted by the authority aforesaid, That from and after the said twenty-fourth day of *June* one thousand seven hundred and forty-one the justices of the peace of any county city riding liberty or division at their general sessions or general quarter sessions assembled, or the major part of them, where there shall be no assizes great session or general gaol delivery held, upon the presentment of the grand jury to such justices at their general sessions or general quarter-sessions, shall have as full power and authority to repair and enlarge any house or houses of correction already built, or to purchase any house or houses for a house or houses of correction, or to build or erect any house or houses of correction, or to purchase land to erect such house or houses of correction

(6.) This implicitly enables the Judges to alter the Position of Bridges: Per Buller I. R. v. Justices of Glamorgan, 5 T. R. 283.

upon, and to make a convenient backside or backsides outlet or outlets thereto, as if such presentment had been made at the assizes great session or general gaol delivery in such manner as is directed and by the same ways and means as are provided in and by the said recited Act made in the thirteenth year of the reign of his present Majesty; any thing in the said Act contained to the contrary thereof in any wise notwithstanding.

No. III. 14 Geo. II. c. 33.

39 Eliz. c. 17. 7 Jac. I. c. 4. 11 & 12 W. III. c. 18. 1 Ann, stat. 2, c. 13. 5 Ann, c. 32. 6 Geo. I. c. 19.

'III. And whereas it is enacted in and by the said Act made in the 'thirteenth year of the reign of his present Majesty, That the justice or 'justices of the peace who shall make any pass for conveying any rogue 'vagabond or incorrigible rogue shall at the same time cause to be de-'livered to the constable a certificate ascertaining the manner of convey-'ing such rogue vagabond or incorrigible rogue; and that when the place 'to which the person or persons apprehended are to be sent lies remote 'and there be one or more counties ridings or divisions intervening, the 'constable or other officer to whom such pass and certificate shall be 'given shall forthwith cause the person or persons therein named to be 'conveyed to the next house of correction in the same county riding or 'division where he or they shall dwell: And whereas it has been some-'times found inconvenient and has created an extraordinary expence to 'send the person or persons apprehended who was or were to be imme-'diately passed to some distant county riding or division by such justice 'or justices to the house of correction in the same county riding or divi-'sion where he or they dwell, such house of correction often lying out of 'the direct way to the place where such person or persons was or were 'to be passed;' For remedy whereof, be it further enacted by the authority aforesaid, That from and after the said twenty-fourth day of *June* one thousand seven hundred and forty-one it shall and may be lawful for any justice or justices of the peace to send any person or persons who shall be apprehended as a rogue vagabond or incorrigible rogue to the house of correction in the county riding or division where he or they dwell, or to any other house of correction in the same county riding or division as shall be most convenient for the passing such person or persons; any thing in the said Act contained to the contrary thereof in any wise notwithstanding.

Justices may send Vagabonds to the most convenient House of Correction, &c.

Farther concerning Vagrants, see 17 Geo. II. c. 5. 25 Geo. II. c. 36—26 Geo. II. c. 34.

[No. IV.] 43 George III. c. 59.—An Act for remedying certain Defects in the Laws relative to the Building and Repairing of County Bridges, and other Works maintained at the Expence of the Inhabitants of Counties in *England*.—[24*th June* 1803.]

43 Geo. III. c. 59.

'WHEREAS the inhabitants of counties in that part of the United 'Kingdom called *England* are by law bound to repair support and 'maintain the public bridges commonly called *County Bridges* within 'such counties respectively and the roads at each of the ends thereof for 'limited distances; but the laws empowering them so to do are insuffi-'cient and defective: And whereas doubts have arisen how far the said 'inhabitants are liable to improve such bridges when they are not suffi-'ciently commodious for the public;' For remedy thereof, be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That it shall be lawful to and for the surveyor of bridges and other publick works in each and every county respectively within that part of the United Kingdom called *England*, appointed or to be appointed by the justices at any general quarter sessions of the peace to be holden for such county, and the said surveyor is hereby authorised and empowered to search for take and carry away gravel stone sand and other materials for the repair of such bridges and roads at the ends thereof as the inhabitants of counties are bound to repair, and to remove obstructions and annoyances from such bridges and roads in such and the same manner as the surveyor or surveyors of any

Surveyors of County Bridges, &c. in England, empowered to get Materials for the Repair of Bridges, in the same Manner as Surveyors of Highways under 13 Geo. III. c. 78.

No. IV.
43 Geo. III. c. 59.

common highway within this kingdom is or are by an Act made and passed in the thirteenth year of the reign of his present Majesty, intituled *An Act to explain amend and reduce into one Act of Parliament the Statutes now in being for the Amendment and Preservation of publick Highways within that part of* Great Britain *called* England, *and for other Purposes*, authorized to do; and the several powers and authorities thereby vested in the surveyor or surveyors of highways, as well for the getting of materials as the preventing and removing of all nuisances and annoyances from such bridges and roads, shall be and the same are hereby vested in the surveyor and surveyors of county bridges and the roads at the ends thereof as aforesaid; and the several penalties forfeitures matters and things in the said Act contained relating to highways shall be and the same are hereby extended and applied as far as the same are applicable to such bridges and the roads at the ends thereof as aforesaid as fully and effectually as if the same and every part thereof were herein repeated and re-enacted; the said surveyor or surveyors making satisfaction and compensation for all trespass and damage done in the execution of the powers of this Act in such and the same manner as the surveyors of highways are required to make in and by the said abovementioned Act of the thirteenth year of the reign of his present Majesty.

Quarter Sessions may widen and improve or alter the Situation of County Bridges, &c.

II. And be it further enacted, That where any bridge or bridges or roads at the ends thereof repaired at the expence of any county shall be narrow and incommodious, it shall and may be lawful to and for the said justices at any of their general quarter sessions to order and direct such bridge or bridges and roads to be widened improved and made commodious for the publick; and that where any bridge or bridges repaired at the expence of any county shall be so much in decay as to render the taking the same wholly down necessary or expedient, it shall and may be lawful to and for the said justices at any of their said general quarter sessions to order and direct the same to be rebuilt either on the old scite or situation or on any new one more convenient to the publick contiguous to or within two hundred yards of the former one as to such justices shall seem meet; and if for the purpose of altering the situation or of widening or enlarging any such bridge or bridges road or roads as aforesaid it shall be necessary to purchase any land or ground, it shall and may be lawful for such county surveyor or surveyors by and under the direction of such justices at their general quarter sessions as aforesaid to set out and ascertain the same, not exceeding in the whole one acre at any one such bridge as aforesaid, and to contract and agree with the owner or owners of such land and persons interested therein for the purchase thereof, either by a sum in gross or by an annual rent at the option of such owner or owners; and if the said surveyor or surveyors cannot agree with the said owner or owners for the purchase thereof or the recompense to be made for the same, or by reason of such owner or owners not being to be found shall be prevented from treating, then and in every such case the said justices in their general quarter sessions shall impannel a jury and assess the compensation and satisfaction for such land and for the trespass and damage to be done by the execution of the powers of this Act in the same manner as they are authorised and empowered to do by the said abovementioned Act of the thirteenth year of the reign of his present Majesty in relation to highways; and all and every the clauses powers provisions exemptions penalties matters and things in the said Act contained as well with respect to impannelling juries examining and swearing witnesses payments of expences enabling bodies politick corporate and collegiate and other incapacitated persons to sell and convey, and all other the powers and provisions of the said Acts shall be and the same are hereby extended and applied to the works by this Act authorised to be done and performed, as far as the same are applicable, as fully and effectually to all intents and purposes as if the same were herein particularly repeated and re-enacted, provided that no money shall be applied to the amendment or alteration of any such bridge or bridges until presentment shall have been made of the insufficiency inconveniency or want of reparation of such bridge or bridges in pur-

on Presentment of Insufficiency, &c.

suance of some or one of the statutes made and now in force concerning publick bridges. (7)

III. And be it further enacted, That the right and property of all tools implements timber bricks stones gravel and other materials purchased gotten or had or to be purchased gotten or had by or by the order of justices in counties or the surveyor of county bridges for the time being, or in any respect belonging to such counties, shall be and the same are hereby vested in such surveyor for the time being, in whom upon any action or indictment being commenced or prosecuted such property may be laid.

Tools and Materials provided by the Quarter Sessions vested in the Surveyor.

IV. And be it further enacted, That the inhabitants of counties shall and may sue for any damages done to bridges and other works maintained and repaired at the expence of such counties respectively and for the recovering of any property belonging to such counties in the name of their surveyor, and also shall and may be sued in the name of such surveyor; and no action or prosecution to be brought or commenced by or against the inhabitants of counties by virtue of this Act in the name of the said surveyor shall abate or be discontinued by the death or removal of such surveyor or by the act of the surveyor without the consent of the justices at their general quarter sessions assembled, but the surveyor for the time being shall be deemed the plaintiff or defendant in such actions, as the case may be: Provided always, that every such surveyor in whose name any action or suit shall be commenced prosecuted or defended in pursuance of this Act shall always be reimbursed and paid out of the monies in the hands of the treasurer of the publick stock of such county respectively all such costs and charges as he shall be put unto or become chargeable with by reason of his being so made plaintiff or defendant therein; and also all the costs and charges of prosecuting any indictment or indictments or other proceedings against any person or persons whomsoever.

Inhabitants of Counties may sue for Damages done to Bridges, in the Name of the Surveyor.

V. 'And for the more clearly ascertaining the description of bridges 'hereafter to be erected, which inhabitants of counties shall and may be 'bound or liable to repair and maintain:' Be it further enacted, That no bridge hereafter to be erected or built in any county by or at the expence of any individual or private person or persons body politick or corporate shall be deemed or taken to be a county bridge or a bridge which the inhabitants of any county shall be compellable or liable to maintain or repair, unless such bridge shall be erected in a substantial and commodious manner, under the direction or to the satisfaction of the county surveyor or person appointed by the justices of the peace at their general quarter sessions assembled, or by the justices of the peace of the county of *Lancaster* at their annual general sessions; and which surveyor or person so appointed is hereby required to superintend and inspect the erection of such bridge when thereunto requested by the party or parties desirous of erecting the same; and in case the said party or parties shall be dissatisfied the matter shall be determined by the said justices respectively at their next general quarter sessions or at their annual general sessions in the county of *Lancaster*.

What sort of Bridges Inhabitants of Counties shall be liable to repair.

VI. And be it further enacted, That all orders and proceedings made and had within the county of *York* relative to county bridges shall in future be made and had by the justices of the respective ridings assembled

Orders respecting County Bridge in the County of York shall be made at the Easter Sessions.

(7.) The Justices of Dorset having under the Stat. 43 Geo. 3. c. 59. contracted for the building of a new Bridge in a different scite, in lieu of the old one, which was ruinous; and having directed the old Bridge to be taken down before the new one was passable, for the benefit of the old materials to be used by the Contractor in finishing the new Bridge; the Court refused a Writ of Prohibition to them to restrain them from pulling down the old before the new Bridge was passable; though there were strong affidavits of the inconvenience and loss to be sustained by the neighbourhood, in being obliged to use a round-about way in the interval: referring the Complainants to the ordinary remedy by indictment, if the pulling down the old Bridge, under those circumstances, were a nuisance; and seeing no occasion to interfere by applying a prompt remedy of a novel kind in modern practice. Rex *v.* the Justices of Dorset, 15 E. R. 594.

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43 Geo. III. c. 59.

at the annual and general quarter sessions of the peace holden the first whole week after *Easter* and at no other sessions whatever within such ridings, except at such adjournment as shall be made at the above annual and general quarter sessions so holden as aforesaid for the express purpose of carrying such orders made as aforesaid into effect: Provided nevertheless, that it shall and may be lawful for any two justices of the said ridings respectively in cases of emergency to give such orders for making temporary bridges or such temporary repairs as shall be necessary for the temporary accommodation of the publick.

Act shall not extend to Bridges repaired by Tenure.

VII. Provided always, and be it further enacted, That nothing herein contained shall extend to any bridges or roads which any person or persons bodies politick or corporate is are or shall be liable to maintain or repair by reason of tenure or by prescription or to alter or affect the right to repair such bridges or roads.

"Publick Act, § 8."

[No. V.] 52 George III. c. 110.—An Act for amending an Act passed in the Twelfth Year of his late Majesty King *George* the Second, intituled, *An Act for the more easy assessing, collecting, and levying of County Rates;* and for the remedying certain Defects in the Laws relating to the repairing of County Bridges and other Works maintained at the expence of the Inhabitants of Counties in *England*.—[*9th July* 1812.]

52 George III. c. 110.
12 G. II. c. 29. § 13.

'WHEREAS by an Act passed in the Twelfth year of his late Majesty King *George* the Second, intituled *An Act for the more easy assessing collecting and levying of County Rates*, (1.) it is enacted, That no part of the money to be raised and collected in pursuance of this Act shall be applied to the repair of any bridges gaols prisons or houses of correction until presentments be made by the respective grand juries at the assize great sessions general gaol delivery or general or quarter sessions of the peace, held for any county riding division city town corporate or liberty, of the insufficiency inconveniency or want of reparation of their bridges gaols prisons or houses of correction; and it is further enacted, That from and after the first day of *June* one thousand seven hundred and thirty-nine, when any public bridges ramparts banks or cops or other works are to be repaired at the expence of any county city riding hundred division liberty or town corporate, it shall and may be lawful to and for the justices of the peace at their general or quarter sessions respectively, or the greater part of them then and there assembled if they think proper and convenient, after presentment to be made as aforesaid of the want of reparation of such bridges ramparts banks or cops, to contract and agree with any person or persons for rebuilding repairing and amending of such bridges ramparts banks or cops as shall be within their respective counties cities ridings hundreds divisions liberties or towns corporate, and all other works which are to be repaired and done by assessment on the respective counties cities ridings hundreds divisions liberties or towns corporate for any term or terms of years not exceeding seven years, at a certain annual sum payment or allowance for the same, such contractor or contractors giving sufficient security for the due performance thereof to the respective clerk of the peace for the time being, or the town clerk high bailiff or chief officer of any city town corporate or liberty; and that such justices at their respective general or quarter sessions shall give public notice of their intention of contracting with any person or persons for rebuilding repairing and amending the bridges ramparts banks or cops and other works aforesaid, and that such contracts shall be made at the most reasonable price or prices which shall be proposed by such contractors

§ 14.

(1.) Inserted post. title *County Rate*.

'respectively; and that all contracts when agreed to and all orders relating thereto shall be entered in a book to be kept by the respective clerk of the peace for the time being or the town clerk high bailiff or chief officer of any city town corporate or liberty for that purpose, who is and are hereby required to keep them amongst the records of such county city town corporate or liberty, to be from time to time inspected at all seasonable times by any of the said justices within the limits of their commissions, and by any person or persons employed or to be employed by any parish township or place contributing to the purposes of this Act, without fee or reward: And whereas great expence in the repairs of county bridges ramparts banks cops and other works appertaining to the same and of the roads over the same, and of so much of the roads at the ends thereof as by law is to be repaired at the expence of any county riding hundred division liberty or town corporate, and great inconvenience to the public may be often in a great measure prevented by the timely and immediate repair of any inconsiderable damage injury defect or sudden want of repair or amendment of the same, without the delay which must generally arise from the necessity imposed by the aforesaid Act of a presentment by the grand jury at the assize great sessions or general or quarter sessions of the peace held for any county city riding division town corporate or liberty of the want of reparation of the same; by means of which delay the aforesaid want of repair is often very much increased to the great expence of the county and great inconvenience of the public: And whereas it is also expedient that the justices of the peace of any county city riding division town corporate or liberty at their general quarter sessions respectively, before any presentment shall have been made as aforesaid, as directed by the aforesaid Act, of the want of repair of such roads, should be enabled without any such presentment to contract and agree with certain persons hereinafter mentioned for the repairing and amending of the same; and also for keeping the same in repair when so repaired and amended;' Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the first day of *July* one thousand eight hundred and twelve, it shall and may be lawful for the justices of the peace of any county city riding division town corporate or liberty, at their general quarter sessions or great sessions respectively, to be holden in the week next after the clause of *Easter*, or the greater part of them then and there assembled, to appoint annually two or more justices of the peace acting in and for any division of justices in such county city riding division town corporate or liberty, in or near which any such county bridge or any bridge which is in part a county bridge ramparts banks cops or other works appertaining to the same or any part or parts thereof, or the roads over the same, or so much of the roads at the ends thereof as by law is to be repaired at the expence of any county city riding division town corporate or liberty shall be situate, to superintend the same, and whenever it shall appear on their own inspection to be necessary for the purpose of preventing the further decay and injury of the same to order any immediate repairs or amendments to be done to the same or to any part thereof; but it shall and may be lawful for any two such justices so to be appointed as aforesaid, and any two such justices are hereby empowered by a written order signed by their hands respectively, to order such immediate repairs to be done by such person or persons as to them shall seem fit and proper: Provided, that in no case the sum to be expended by them in such repairs shall exceed the sum of twenty pounds; and further, that such appointments of such justices as aforesaid shall remain in force until one week after the following *Easter* sessions respectively; and that in case of the death of or removal of or refusal to act by any such justice or justices so appointed as aforesaid, the said court of general or quarter sessions or great sessions may at any other of the four quarterly sessions appoint any other justice or justices to act for the re-

Quarter Sessions may appoint Justices to superintend Repairs.

Expenditure.

Justices to remain in Office for One Year.

No. V.
58 Geo. III.
c. 110.

mainder of the then current year, in the place of any such justice or justices so dying removing or refusing to act as aforesaid.

Quarter Sessions to order Payment for Repairs.

II. And be it further enacted by the authority aforesaid, That it shall and may be lawful for the justices of the peace of any county city riding division town corporate or liberty, at the general quarter sessions or great sessions which shall next happen after such repairs so ordered to be made by such justices so appointed as aforesaid shall be completed, or the greater part of them then and there assembled, to order the payment of such sum or sums of money not exceeding ten pounds, as shall be sufficient to pay for such repairs, to be made out of the county rate to such person or persons who shall have so repaired the same by such order of such justices as aforesaid, although no presentment shall have been made by any grand jury at the assize great sessions or general quarter sessions of the peace of any county city riding division town corporate or liberty in which such repairs shall have been done, of the want of such reparation, as by the said Act of the twelfth year of his late Majesty King *George* the Second above recited was directed: Provided nevertheless, that before such payment be ordered to be made as aforesaid, a certificate be returned to such justices of the peace so assembled at such last-mentioned sessions, signed by two at the least of such justices so appointed as aforesaid, who shall have so ordered such repairs as aforesaid, stating the nature of such repairs and the defects damage or injuries which they had so ordered to be repaired, and their reason for so ordering such immediate repairs as aforesaid: Provided also that such justices of the peace so assembled as last aforesaid, be satisfied by the parties concerned that the charges so made by them for such repairs are reasonable and just.

Certificate signed by One Justice.

Justices at Sessions may appoint Two Justices before Easter Sessions.

III. Provided always, and be it enacted, That from and after the first day of *July* one thousand eight hundred and twelve it shall and may be lawful for the justices of the peace of any county city riding division town corporate or liberty, at any general quarter sessions or great sessions respectively to be holden in any such county city riding division town corporate or liberty, before the general or great sessions which shall be holden in such county city riding division town corporate or liberty in the week after the clause of *Easter* next after the said first day of *July*, or the greater part of them then and there assembled if they shall so think proper, to make such appointment or appointments of justices as they have been hereinbefore by this Act authorised to make at any such *Easter* sessions, and such appointment or appointments shall be in force until one week after the then next *Easter* Sessions.

Provisions of Easter Appointment to apply.

IV. And it is hereby further enacted, That in case of any such appointment or appointments being made as are herein lastly mentioned and authorised by this Act, all the provisions rules regulations powers directions and authorities of this Act, which are applicable in case of any appointment or appointments being made at any such *Easter* sessions, shall apply in the same manner and in every respect whatsoever, in case of any such appointment or appointments being made, as are hereby authorised at any such sessions as shall be held before the *Easter* sessions which shall be held next after the said first day of *July* one thousand eight hundred and twelve.

Justices may contract for Repair of Bridges.

V. And be it further enacted by the authority aforesaid, That from and after the first day of *July* one thousand eight hundred and twelve it shall and may be lawful for the justices of the peace of any county city riding division town corporate or liberty at their general quarter sessions respectively, or the greater part of them then and there assembled, if they shall think proper and convenient, to contract and agree with the commissioner or commissioners trustee or trustees of any turnpike road within the said county city riding division town corporate or liberty, or with their surveyor or clerk, or with both their surveyor and clerk, or with the surveyor or surveyors of the highway of any parish place or tything within the said county city riding division town corporate or liberty respectively, or with any other person or persons for the main-

taining and keeping in repair roads over any county bridges and of so much of the roads at the ending thereof as by law is to be repaired at the expence of any such county city riding division town corporate or liberty, or any part of the same, for any term not exceeding seven years nor less than one, although no presentment shall have been made as directed by the said recited Act of the twelfth year of his late Majesty King *George* the Second of the insufficiency inconveniency decay or want of repair of the same; subject however to all the rules restrictions regulations directions and conditions required by the above recited Act in case where the same shall have been presented or directed by that Act.

No. V. 52 Geo. III. c. 110.

12 G. 2. c. 29. § 13.

[No. VI.] 54 George III. c. 90.—An Act to explain and extend an Act, passed in the Forty-third Year of his present Majesty, intituled *An Act for remedying Defects in the Laws relative to the building and repairing of County Bridges, and other Works maintained at the Expence of the Inhabitants of Counties in* England; and for extending the said Act to Bridges and other Works maintained at the Expence of Hundreds.—[14*th July* 1814].

54 Geo. III. c. 90.

43 G. 3. c. 59.

'WHEREAS doubts have been entertained whether the power contained in an Act passed in the forty-third year of the reign of his 'present Majesty, intituled *An Act for remedying certain Defects in the 'Laws relative to the building and repairing of County Bridges and other 'Works maintained at the Expence of the Inhabitants of Counties in* England, for the purchasing of any land or ground, do extend to the purchase of any building or buildings or other erections;' For remedy whereof, May it therefore please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That all and every the powers and authorities in the said Act mentioned and contained for the purchase of any land or ground for the purposes of the said Act shall extend and be deemed and construed to extend to all such building or buildings or other erections as may be necessary to be purchased for the purposes of the said Act.

Extended to Purchase of Buildings, &c. as well as to Purchase of Land.

II. 'And whereas it is expedient that the provisions of the said Act as 'after mentioned should be extended to bridges repaired by the inhabi-'tants of hundreds and other general divisions of counties;' Be it further enacted, That the said Act and all the powers and provisions thereof (except such provisions therein as relate to bridges thereafter to be erected and built) shall extend as well to bridges and the roads at the ends thereof repaired by the inhabitants of hundreds and other general divisions in the nature of hundreds as to bridges and the roads at the ends thereof repaired by the inhabitants of counties.

Extended to Bridges, &c. repaired by Hundreds or other Divisions of Counties.

[No. VII.] 59 Geo. III. c. 143.—An Act to amend the Acts relating to the building and repairing of County Bridges.—[6*th July* 1815.]

55 Geo. III. c. 143.

43 Geo. 3. c. 59.

WHEREAS in and by an Act made and passed in the forty-third year of the reign of his present Majesty, intituled *An Act for remedying certain Defects in the Laws relative to the building and repairing of County Bridges, and other Works maintained at the Expence of the Inhabitants of Counties in* England, it is enacted that it should be lawful to and for the surveyor of bridges and other public works in each and every county respectively within that part of the United Kingdom called *England*, appointed or to be appointed by the justices at any general quarter sessions of the peace to be holden for such county, and the said surveyors were

No. VII.
59 Geo. III. c. 143.

thereby authorised and empowered to search for take and carry away gravel stone sand and other materials for the repair of certain bridges therein mentioned and roads at the ends thereof, being such as the inhabitants of counties are bound to repair, and to remove obstructions and annoyances from such bridges and roads in such and the same manner as the surveyor or surveyors of any common highway within this kingdom is or are by an Act passed in the thirteenth year of the reign of his present Majesty, intituled *An Act to explain amend and reduce into one Act of Parliament the Statutes now in being for the Amendment and Preservation of the Public Highways within that part of* Great Britain *called* England *and for other Purposes* authorised to do; and the several powers and authorities thereby vested in the surveyor or surveyors of highways, as well for the getting of materials as the preventing and removing of all nuisances from such bridges and roads, should be and the same were thereby vested in the surveyor and surveyors of county bridges and the roads at the ends thereof as aforesaid; and the several penalties forfeitures matters and things in the said Act contained relating to highways should be and the same were thereby extended and applied as far as the same are applicable to such bridges and the roads at the ends thereof as aforesaid, as fully and effectually as if the same and every part thereof were therein repeated and re-enacted; the surveyor or surveyors making satisfaction and compensation for all trespass and damage done in the execution of the powers of that Act in such and the same manner as the surveyors of highways are required to make in and by the said recited Act: And whereas an Act was made in the fifty-fourth year of the reign of his present Majesty, intituled *An Act to explain and extend an Act passed in the Forty-third year of his present Majesty, intituled 'An Act for 'remedying Defects in the Laws relative to the building and repairing of 'County Bridges and other Works maintained at the Expence of the In-'habitants of Counties in* England,' *and for extending the said Act to Bridges and other Works maintained at the Expence of Hundreds:* And whereas it is expedient that surveyors of county bridges and other persons being under contract for the rebuilding or repairing such bridges or bridges repaired by the inhabitants of hundreds and other general divisions of counties in the nature of hundreds, should have a more extended power for procuring materials than is at present vested in such surveyors of county bridges by the operation of the said first-recited Act, so far as relates to the procuring of stone for such purposes from quarries; Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act it shall and may be lawful to and for every surveyor of such bridges in each and every county within that part of the United Kingdom called *England*, appointed or to be appointed by the justices at any general quarter sessions of the peace to be holden for such county; and also to and for the bridge master or all and every persons or person who may at the passing of this Act or from and after the passing thereof be under contract for the rebuilding or repairing of any public bridge built or repaired at the expence of the inhabitants of any such county hundred or general division as aforesaid; and such surveyor and surveyors and also such other person or persons are hereby authorised and empowered, with the consent and by the order of two justices of the peace acting for the county in which such bridge is intended to be rebuilt or repaired first had and obtained for that purpose, to search for work dig get and carry away any stone in from or out of any quarry or quarries whatsoever within the county or counties to which such bridge may belong; other than and except such quarries as may be situated within a garden yard avenue to a house lawn park paddock or inclosed plantation, or as may now or hereafter have ornamental timber trees growing thereon, without the licence or consent of the owner or owners of such quarry or quarries as such surveyor or other person or persons shall judge necessary for the rebuilding or repairing of such bridges respectively, provided such quarry or quarries shall have been

13 Geo. 3. c. 49.

54 Geo. 3. c. 90.

Surveyors of County Bridges, and other Persons employed under Contracts, empowered to take Stones for the Repair of County Bridges.

Consent and Order of Two Justices of the Peace necessary.

Quarries situated in Gardens and Pleasure Grounds not to be used without Consent of the Owners.

worked within the last three years preceding the time when such bridge shall be about to be rebuilt or repaired; the said surveyor or other person or persons making such satisfaction and recompence for the value of such stone and also for the damage to be done to such quarry or quarries by the getting and carrying away the same as shall be agreed upon between him or them and the owner occupier or other person interested in such quarry or quarries respectively; and in case they cannot agree, or such owner or occupier or other person interested shall refuse to treat, then and in every such case the justices of the peace at their general or quarter sessions or any two or more of them appointed for that purpose, fourteen days notice having been given to the owner or his agent of the intention to require a jury, shall cause the value of such stones and amount of such damage to be inquired into and ascertained by a jury of indifferent men of the county riding division city town liberty or precinct wherein the same shall be situated; and to that end shall summon and call before such jury and examine upon oath (which oath any two or more of such justices of the peace is and are hereby empowered to administer) any person or persons whomsoever; and such justices of the peace or any two of them shall by ordering a view or otherwise use all ways and means for the information of themselves and of such jury in the premises; and when such jury shall have inquired of and ascertained the value of such stones and amount of such damage the said justices of the peace shall thereupon order that the sum or sums which shall so appear to be the value of such stones and amount of such damage shall be paid; which verdict or inquisition and order shall be filed of record by the clerk of the peace or other officer having the custody of the records of the said county riding division city town liberty or precinct, and shall be final and conclusive to all intents and purposes whatsoever against all parties and persons whomsoever claiming or to claim in possession remainder reversion or otherwise their heirs and successors as well absent as present, infants lunatics ideots and persons under coverture or any other disability whatsoever, corporations guardians committees husbands trustees and attornies or any other person or persons whomsoever.

Satisfaction to be made for Stone, and Damage done.

In case of Refusal to treat, Justices at General or Quarter Sessions shall cause the Value of the Stones, and Amount of the Damage done, to be ascertained by a Jury.

Witnesses called before the Jury may be examined upon Oath.

II. And for the summoning and returning such juries be it further enacted, That such justices of the peace or any two of them may issue their warrant or warrants to the sheriff or bailiff of any particular county riding division city town liberty or precinct within the limits of which the quarry or quarries shall be situated, requiring him to impannel summon and return an indifferent jury of twenty-four persons qualified to serve on juries to appear before the said justices or any two of them at such time and place as in such warrant or warrants shall be appointed; and such sheriff or bailiff is and are hereby required to impannel summon and return such number of persons accordingly; and out of the persons so impannelled summoned and returned, or out of such of them as shall appear upon such summons, the justices of the peace or any two of them shall and they are hereby empowered and required to draw by ballot and to swear or cause to be sworn twelve men who shall be the jury for the purposes aforesaid; and in default of a sufficient number of jurymen so returned the said sheriff or bailiff shall take such other honest and indifferent men of the bystanders or that can speedily be procured to attend that service to make up the number of twelve: and all persons concerned shall have their lawful challenges against any of the said jurymen when they come to be sworn; and the said justices of the peace or any two of them shall have power from time to time to impose a fine or fines on such sheriff or bailiff or his deputy or deputies making default in the premises and on any of the persons who shall be summoned and returned on such jury and who shall not appear, or appearing shall refuse to be sworn on the said jury or being sworn shall refuse to give or shall not give a verdict, or shall in any other manner wilfully neglect his or their duty therein, and also on any person who being summoned and required to give evidence before the said jury shall refuse or neglect to appear, or appearing shall refuse to be sworn or to give evidence, so that no such fine be more than ten pounds nor less than twenty shillings on any one person for one offence.

Justices of the Peace may require Sheriffs or Bailiffs to return Juries.

Jury.

Penalty on Jury refusing to appear or to be sworn, and on Persons summoned to attend, refusing to give Evidence.

No. VII.

59 Geo. III. c. 143.

Expences of the Jury how to be defrayed.

III. And be it further enacted, That in case any jury shall give in and deliver a verdict for more money as the value of such stones and amount of such damage than what shall have been offered for the purchase thereof by such surveyor or other person or persons as aforesaid, the costs and expences of summoning and maintaining the jury and witnesses shall be borne and paid out of the rates to be collected within such county respectively; but if such jury shall give in and deliver a verdict for no more or for less money than the money which shall have been so offered by such surveyor or other person or persons as aforesaid, then the costs and expences of summoning and maintaining the said jury and witnesses shall be borne and paid by the person or persons with whom such controversy or dispute touching the value of such stones and amount of such damage shall arise, and shall be levied by the warrant of one of the said justices by distress and sale of the goods and chattels of the person or persons made liable to the payment thereof.

Persons aggrieved may appeal to Justices assembled in General Quarter Sessions.

IV. Provided always and be it further enacted, That if any person or persons shall or may think himself, herself or themselves aggrieved by any thing done or to be done in pursuance of this Act, such person or persons may within the space of three calendar months next after the cause of complaint shall have risen appeal to the justices of the peace at any general quarter sessions of the peace to be holden for the limit wherein the cause of complaint shall arise, every such appellant first giving or causing to be given fourteen days notice at least in writing of his or her intention to bring such appeal and of the cause or matter thereof to the person or persons against whom such complaint shall be made, and within three days next after such notice entering into a recognisance before some justice of the peace acting for the county wherein the cause of complaint shall arise, with two sufficient sureties conditioned to try such appeal and to abide by the order of and pay such costs as shall be awarded by the justices at such session aforesaid; and the said justices at such session, upon due proof of such notice being given as aforesaid and of the entering into such recognisance, shall hear and finally determine the cause and matter of every such appeal in a summary way, and make such award to the party appealing or appealed against as the said justices shall think proper; and the determination of such justices so assembled shall be binding and conclusive to all intents and purposes.

Appellant to enter into Recognisance.

Justices to determine the Matter of Appeal in a summary Way.

Enabling Justices to contract for the Repair of County Bridges, &c.

V. And whereas it is expedient that the powers contained in an Act passed in the forty-third year of his present Majesty, intituled *An Act for remedying certain Defects in the Laws relative to the building and repairing of County Bridges and other Works, maintained at the Expence of the Inhabitants of Counties in* England, for authorising the justices of the peace of any county city riding division town corporate or liberty at their general quarter session of the peace to contract for maintaining and keeping in repair roads over county bridges and so much of the roads at the ending thereof as by law is to be repaired at the expence of counties, although no presentment shall have been made of the want of repair as directed by an Act passed in the twelfth year of his late Majesty King *George* the Second, intituled *An Act for the more easy assessing collecting and levying of County Rates*, should be extended to the bridges as well as to the roads at the end thereof; Be it further enacted, That from and after the day of passing this Act it shall and may be lawful to and for the justices of the peace of any county city riding division town corporate or liberty at their general quarter sessions respectively to contract and agree or to authorise any other person or persons to contract and agree with any person or persons for the maintaining and keeping in repair any county or hundred bridge and the road over such county or hundred bridge, and so much of the road at the ends thereof as are by law liable to be repaired at the expence of any such county hundred city riding division town corporate or liberty or any part of the same; and the said justices are hereby empowered to order such sum or sums of money as may be contracted for and agreed to be paid for the repairing amending and supporting such bridges and the roads over the same or the ends thereof to be paid (in

12 Geo. 2. c. 29.

No. VII.
59 Geo. III. c. 143.

cases where the county is liable to the repair thereof) by the treasurer of the county out of the county rate, or (in cases where the hundred is liable to the repair of the same) by the bridge master (or other public officer charged with the repair of bridges) of the hundred by which such bridge is liable to be repaired, for any term not exceeding seven years nor less than one, although no presentment of the insufficiency decay or want of repair of the same shall have been made, and although no public notice shall have been given by the said justices at their respective general or quarter session of their intention to contract for the repair of such bridges or the roads at the ends thereof as respectively directed by the said Act of the twelfth year of his late Majesty King *George* the Second: Provided nevertheless, that before any such contract shall be made the said justices shall cause notices to be given in some public paper circulated in such county city riding hundred division town corporate or liberty of their intention to contract.

PART VI.

CLASS VII.

Carriers.

P.

Rep. by 18 *Geo. III.* 78. 34. as to Highways.

[No. 1.] 3 William and Mary, c. 12.—An Act for the better repairing and amending the Highways, and for settling the Rates of Carriage of Goods.

3 Will. & Mary, c. 12.

Justice once a Year to settle the Rates of Carriage.

XXIV. 'AND whereas divers waggoners and other carriers by combination amongst themselves have raised the prices of 'carriage of goods in many places to excessive rates to the great injury 'of trade;' Be it therefore enacted by the authority aforesaid, That the justices of the peace of every county and other place within the realm of *England* or dominion of *Wales* shall have power and authority and are hereby enjoined and required at their next respective quarter or general sessions after *Easter* day yearly to assess and rate the prices of all land-carriage of goods whatsoever to be brought into any place or places within their respective limits and jurisdictions by any common waggoner or carrier, and the rates and assessments so made to certify to the several mayors and other chief officers of each respective market town within the limits and jurisdictions of such justices of the peace, to be hung up in some publick place in every such market town to which all persons may resort for their information; and that no such common waggoner or carrier shall take for carriage of such goods and merchandizes above the rates and prices so set, upon pain to forfeit for every such offence the sum of five pounds to be levied by distress and sale of his and their goods by warrant of any two justices of the peace where such waggoner or carrier shall reside, in manner aforesaid, to the use of the party grieved.

5*l.* Penalty upon Carrier taking above the Rate.

P.

[No. II.] 21 George II. c. 28.—An Act to explain and amend an Act passed in the Fourteenth Year of his Majesty's Reign, intituled *An Act for the Preservation of the Public Roads in that Part of* Great Britain *called* England; and so much of an Act passed in the Third Year of the Reign of King William and Queen Mary, intituled *An Act for the better repairing and amending the Highways; and for settling the Rates of the Carriage of Goods,* as relates to the settling the Rates of the Carriage of Goods.

21 George II. c. 28.

'AND whereas by an Act made and passed in the third year of the 'reign of King *William* and Queen *Mary*, intituled, *An Act for the 'better repairing and amending the Highways and for settling the Rates of 'Carriage of Goods*, it is enacted, That the justices of the peace of every 'county and other place within the realm of *England* or dominion of '*Wales* should have power and authority and they were thereby enjoined 'and required at their next respective quarter session after *Easter* yearly 'to assess and rate the prices of all land carriage of goods whatsoever to 'be brought into any place within their respective limits and jurisdic-'tions by any common waggoner or carrier to be certified and published 'in such manner as is therein mentioned; and that no such common

No. II.
21 Geo. II.
c. 28.

'waggoner or carrier should take for the carriage of such goods or mer-'chandize above the rates and prices so set, upon pain to forfeit for every 'such offence the sum of five pounds, to be levied and recovered as is by 'the said Act directed: And whereas no rates for the carriage of goods 'from distant parts of the kingdom to the City of *London* and places ad-'jacent have been yet settled, and several common waggoners and car-'riers have from thence taken occasion to enhance the price of carriage 'of goods to the prejudice and obstruction of trade;' Be it therefore further enacted by the authority aforesaid, That if any common waggoner or carrier shall after the tenth day of *June* one thousand seven hundred and forty-eight demand and take any greater price for the bringing of goods to the City of *London* or to any place within the bills of mortality than is allowed and settled by the justices of the peace for the county or place from whence such goods are brought for the carrying of goods from *London* to the said county or place, every such carrier or waggoner shall for every such offence forfeit and pay the sum of five pounds to the use of the party grieved, to be recovered and levied in the manner by the last-mentioned Act directed, or by distress and sale of his goods by warrant under the hands and seals of any two justices of the peace for the counties of *Middlesex* or *Surrey* or City of *London* or City and Liberty of *Westminster;* and the clerk of the peace for every county and place shall immediately after *Easter* session yearly certify to the Lord Mayor of the City of *London* and also to the respective clerks of the peace for the counties of *Middlesex* and *Surrey* and City and Liberty of *Westminster* the rates and assessments made for the carriage of goods in pursuance of the said Act in their respective counties and places, which certificate or an attested copy thereof signed by the officer to whom the same shall be so transmitted shall be taken and deemed sufficient evidence of the rates and prices set for the carrying of goods to any county or place.

Penalty of Waggoners demanding a greater Price for Carriage than allowed.

Clerk of the Peace to certify yearly the Rates for Carriage.

PART VI.

CLASS VIII.

Coal Mines.

39 and 40 George III. c. 77.—An Act for the Security of Collieries and Mines, and for the better Regulation of Colliers and Miners.

[See this Statute in Part V. Class VI. No. LIX.]

PART VI.

CLASS IX.

*Constables.**

[No. I.] 27 George II. c. 3.—An Act for the better securing to Constables and others the Expences of conveying Offenders to Gaol; and for allowing the Charges of poor Persons bound to give Evidence against Felons.

27 George II. c. 3.
3 Jac. I. c. 10.

'WHEREAS by an Act passed in the third year of the reign of King 'James the First, intituled, *An Act for the rating and levying of the 'Charges for conveying Malefactors and Offenders to the Gaol*, every 'offender so to be conveyed shall bear the charges of himself and of those 'who convey him; and if he refuse so to do, his goods within the same 'county may be distrained and sold to satisfy the same; and if he hath 'no goods the constable churchwardens and other inhabitants of the pa-'rish where he was taken shall make a tax on every inhabitant thereof 'to pay the said charges: And whereas the taxing the parish where such 'offender was taken to pay such charges is a great discouragement to 'parishes to take offenders; and it is also found by experience to be very 'difficult to make a rate on the inhabitants to raise such tax, whereby 'constables and others are often kept out of their money by them ad-'vanced for the service of the public and sometimes lose the same to their 'very great injury and vexation;' For remedy whereof, Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the twenty-fourth day of *June* one thousand seven hundred and fifty-four, when any person not having goods or money within the county where he is taken sufficient to bear the charges of himself and of those who convey him is committed to gaol or the house of correction by warrant from any justice or justices of the peace, then on application by any constable or other officer who conveyed him to any justice of the peace for the same county or place (1.) shall upon oath examine into and ascertain the reasonable expences to be allowed such constable or other officer, and shall forthwith without fee or reward by warrant under his hand and seal order the treasurer of the county or place to pay the same, which the said treasurer is hereby required to do as soon as he receives such warrant; and any sum so paid shall be allowed in his accounts.

Offenders not having sufficient,

Justices to grant a Warrant on Treasurer of the County for Payment of the Charges.

Part of 2 Jac. I. c. 10. repealed.

II. And be it further enacted by the authority aforesaid, That from and after the said twenty-fourth day of *June* so much of the above-mentioned Act passed in the third year of King *James* the First as relates to taxing the parish where offenders are taken for defraying the charges of conveying offenders to gaol shall be repealed.

The Charges of Attendance to be allowed by the Court to poor Persons bound to give Evidence against Felons.

III. 'And whereas the expence as well as loss of time in attending 'courts of justice is a discouragement to the poorer sort to appear as wit-'nesses against offenders, who thereby escape the public justice and the 'punishment due to their crimes;' Be it further enacted by the authority aforesaid, That from and after the said twenty-fourth day of *June* when any poor person shall appear on recognisance in any court to give

* By St. 13 and 14 Ch. II. c. 12. the Justices in Session, in case of the Death or Removal of a Constable, are empowered to appoint another.—See the Statute post. title *Poor*.

(1.) The Words "Such Justice" are omitted in the Act.

No. I.
27 Geo. II. c. 3.

evidence against another accused of any grand or petty larceny or other felony, it shall and may be in the power of the court, at the prayer and on the oath of such person and on consideration of his circumstances, in open court to order the treasurer of the county or place in which the offence shall have been committed to pay unto such person such sum of money as to the same court shall seem reasonable for his time trouble and expence; which order the proper officer of such court is hereby directed and required to make out and to deliver unto such person upon being paid for the same the sum of sixpence and no more; and such treasurer is hereby authorised and required upon delivery of such order forthwith to pay such person or other person authorised to receive the same such sum of money as aforesaid, and shall be allowed the same in his accounts.

6d. to be paid to the Officer for making out the Order.

IV Provided always, and it is hereby declared and enacted by the authority aforesaid, That nothing in this Act contained shall extend to empower such court or any justice or justices of the peace to make warrants or orders on the treasurer of the county of *Middlesex* for the payment of the expences of the constable or other officer in conveying any person to gaol, or for the payment of any person for his time trouble and expence who shall appear on his recognisance to give evidence as aforesaid; but that within the said county of *Middlesex* the expences of the constable or other officer, occasioned by his conveying of any person to gaol by virtue of a warrant from any justice or justices of the peace, shall (after such expences have been examined into upon oath and allowed by such justice or justices, and for which no fee or reward shall be taken) be paid by the overseer or overseers of the poor of the parish or place where the said person was apprehended, who is and are hereby authorised and required to pay the same; and the sum or sums so paid shall be allowed in his or their accounts.

In Middlesex the Overseers of the Poor to pay such Charges.

[No. II.] 18 Geo. III. c. 19.—An Act for the Payment of Costs to Parties, on Complaints determined before Justices of the Peace out of Sessions; for the Payment of the Charges of Constables in certain Cases; and for the more effectual Payment of Charges to Witnesses and Prosecutors of any Larceny, or other Felony.

18 George III. c. 19.

'WHEREAS by the laws now in being, his Majesty's justices of the peace are not sufficiently authorised on complaints that come before them out of sessions to award costs against either the person or persons complaining or the person or persons against whom any complaint is made as to justice may appertain.' May it please your Majesty that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That where any complaint shall be made before any of his Majesty's justices of the peace for any county riding division city town corporate franchise or liberty, and any warrant or summons shall issue in consequence of such complaint, that then it shall and may be lawful to and for any justice or justices of the peace, who shall have heard and determined the matter of the said complaint, to award such costs to be paid by either of the parties and in manner and form as to him or them shall seem fit to the party injured (1) And in case any person so ordered by the said justice or justices of the peace to pay such sums of money as aforesaid shall not forthwith pay down or give security for the same to the satisfaction of the justice or justices, it shall and may be lawful for the said justice or justices by warrant under his hand and seal or their hands and seals to levy the said sum or sums by dis-

Justices, out of Session, empowered to award Costs.

(1.) Justices of the Peace may give Costs in all Cases of Convictions, by Stat. 18 Geo 3. c. 19. Rex v. Arnold, 5 T. R. 356. See also Rex v. Myers, 6 T. R. 237.

No. II.
18 Geo. III. c. 19.

tress and sale of the goods and chattels of such person so refusing or neglecting; and where goods and chattels of such person cannot be found to commit such person to the house of correction for the county riding division city town corporate franchise or liberty wherein such person shall reside, there to be kept to hard labour for any time not exceeding one month nor less than ten days, or until such sum or sums of money together with the expences attending the commitment of such person to such house of correction be first paid.

Same may be levied by Distress.

If Penalty amount to 5*l*. Costs shall be deducted thereout, &c.

II. Provided nevertheless, That upon the conviction of any person or persons upon any penal statute or statutes where the penalty or penalties shall amount to or exceed the sum of five pounds, the said costs shall be deducted by the said justice or justices according to his or their discretion out of the said penalty or penalties, so that the said deduction shall not exceed one-fifth part of the said penalty or penalties; and the remainder of the said penalty or penalties shall be paid to or divided among the person or persons who would have been entitled to the whole of the penalty or penalties in case this Act had not been made.

Forms to be used.

III. And be it further enacted by the authority aforesaid, That the several forms to this Act annexed shall and may in the respective cases be used and observed.

Constables, &c. shall, every Three Months, deliver to the Overseers an Account of Money by them expended or received, &c.

IV. 'And whereas constables headboroughs and tithingmen are or 'may be at great charge in doing the business of their parish township 'or place, and in many cases are not sufficiently indemnified by the 'laws;' Be it therefore enacted by the authority aforesaid, That every constable headborough or tithingman shall every three months, and within fourteen days after he shall go out of such office, deliver to the overseers of the poor of the said parish township or place for the time being a just account in writing, fairly entered in a book to be kept for that purpose and signed by him, of all sums so by him expended on account of the said parish township or place, in all cases not hitherto provided for by the laws heretofore made or by this Act, and also of all sums received by him on the account of the said parish township or place; and the said overseers of the poor or their successors shall within the next fourteen days after the said account or accounts shall be so delivered lay the same before the inhabitants of the said parish township or place; and in case the said account or accounts be approved of by the majority of such inhabitants, the overseers of the poor of the said parish township or place for the time being are hereby authorised and required to pay out of the poor rates made or to be made for such parish township or place such sum or sums of money as shall appear to be due on the said account or accounts; but in case the said account or accounts or any part thereof shall be disallowed, then the said overseers of the poor for the time being shall then deliver back to the said constable headborough or tithingman such book of accounts; and it shall and may be lawful to and for the said constable headborough or tithingman then to produce the said book before any one or more of his Majesty's justices of the peace in and for the county riding division city town corporate franchise or liberty wherein such parish or township shall be situate, giving reasonable notice thereof to the overseers of the poor of the said parish township or place for the time being; which said justice or justices is and are hereby authorised to examine the same, and to hear and determine any objection or objections that shall be made to the said accounts, and to settle the sum which to him or them shall appear due on the said account, and to enter the same in the said account, and to sign his or their name or names thereto; and the overseers of the poor of the said parish township or place for the time being are hereby authorised and required to pay the said sum out of the money which shall come to their hands by virtue of any rate or assessment made or to be made for the relief of the poor. (1.)

If any such Account be disallowed, a Justice may settle the same.

(1.) The expence of a constable in prosecuting an assault committed on him in the execution of his duty cannot be paid by the Overseer out of the Poor Rates, and are not within the 18 Geo. 3. c. 29. § 4. Rex, v. Bird, 2 B. & A. 522.

No. II.
18 Geo. III. c. 19.

V. Provided nevertheless, That in case the overseer or overseers of the poor of the said parish township or place for the time being shall find that the said parish township or place is aggrieved by any neglect act or thing done or omitted by the said constable headborough or tithingman, or by any of his Majesty's justices of the peace, or shall have any material objection to such account or any part thereof, or to such determination as aforesaid, it shall and may be lawful for such overseer or overseers in any of the cases aforesaid, giving reasonable notice to the said justice constable headborough or tithingman, to appeal to the next general or quarter sessions of the peace for the county riding division city town corporate franchise or liberty where such parish township or place lies; and the justices of the peace there assembled are hereby authorised and required to receive such appeal, and to hear and finally determine the same; but if it shall appear to the said justices that reasonable notice was not given, then they shall adjourn the said appeal to the next quarter sessions, and then and there finally hear and determine the same; and the said justices may award and order to the party for whom such appeal shall be determined reasonable costs, in the same manner that they are empowered to do in case of appeals concerning the settlement of poor persons, by an Act made in the eighth and ninth years of King *William* the Third, intituled *An Act for supplying some Defects in the Laws for the Relief of the Poor of this Kingdom.*

Appeal.

VI. Provided always, That in all corporations o liberties which have not four justices of the peace, it shall and may be lawful for the overseer or overseers of the poor of the parish township or place for the time being, where an appeal is given by this Act, to appeal if he or they shall think fit to the next general or quarter sessions of the peace for the county riding or division wherein such corporation or liberty is situate.

Proviso relating to Corporations, &c.

VII. 'And whereas by an Act passed in the twenty-fifth year of his 'late Majesty King *George* the Second, intituled *An Act for the better* '*preventing Thefts and Robberies, and for regulating Places of publick* '*Entertainment, and punishing Persons keeping disorderly Houses*; it was 'recited, That whereas many persons are deterred from prosecuting 'persons guilty of felony upon account of the expence attending such 'prosecutions, which is a cause of the encouragement of thefts; and it 'was therein among other things enacted, That it should and might be 'in the power of the court before whom any person has been tried and 'convicted of any grand or petit larceny or other felony, at the prayer of 'the prosecutor and on consideration of his circumstances, to order the 'treasurer of the county in which the offence shall have been committed, 'to pay unto such prosecutor such sum of money as to the said court 'shall seem reasonable, not exceeding the expences which it shall appear 'to the court the prosecutor was put unto in carrying on such prose-'cution, making him a reasonable allowance for his time and trouble 'therein; which order the clerk of assize or clerk of the peace respec-'tively was thereby directed and required forthwith to make out and 'deliver unto such prosecutor, upon being paid for the same the sum of 'one shilling and no more: And whereas by an Act passed in the twenty-'seventh year of his late Majesty King *George* the Second, reciting, That 'the expence as well as loss of time in attending courts of justice is a 'discouragement to the poorer sort to appear as witnessess against offen-'ders, who thereby escape the publick justice and the punishment due 'to their crimes; it was enacted, That when any poor person shall appear 'on recognisance in any court to give evidence against another accused 'of any grand or petit larceny or other felony, it should and might be in 'the power of the court, at the prayer and on the oath of such person 'and on consideration of his circumstances, in open court to pay unto 'such person such sum of money as to the said court shall seem reason-'able for his time trouble and expence; which order the proper officer of 'such court is required to make out and deliver to such person, upon 'being paid for the same the sum of sixpence and no more: And whereas 'the said recited Acts of the twenty-fifth and twenty-seventh years of 'his late Majesty King *George* the Second have been a great encourage-

25 George II.

27 George II.

No. II.
18 Geo. III. c. 19.

'ment towards bringing offenders to justice in all such cases as are 'within the purview of the said statutes; but nevertheless it has been 'found by experience that the said herein-before recited statute of the 'twenty-seventh year of his said late Majesty, with regard to persons 'appearing on recognisance in any court to give evidence as aforesaid 'extends only to poor persons, such court also considering their circum-'stances; and also does not extend to persons appearing on subpœna to 'give evidence: And whereas the said Act of the twenty-fifth year of his 'said late Majesty, with regard to prosecutors directs the court to con-'sider the circumstances of such prosecutor, and also gives him relief 'only where the offender is convicted: And whereas it is just and rea-'sonable and may tend in future to the prevention of crimes, or to the 'due prosecution of all offenders against the laws, that every prosecutor 'to conviction, and every person so appearing on recognisance or subpœna 'to give evidence should be allowed his reasonable expences, and also 'in case he be poor a reasonable satisfaction for his trouble and loss 'of time; and that such allowance should be made to prosecutors as 'aforesaid even though the person so accused be acquitted, provided it 'shall appear to such court before whom the said prisoner shall have 'been tried that there was a reasonable ground of prosecution, and that 'the prosecutor hath *bona fide* prosecuted;' Be it further enacted by the authority aforesaid, That from and after the passing of this Act it shall and may be in the power of the court before whom any person has been tried and convicted of any grand or petit larceny or other felony, or before whom any person has been tried and acquitted of any grand or petit larceny or other felony, in case it shall appear to the said court that there was a reasonable ground of prosecution, and that the said prosecutor hath *bona fide* prosecuted, to order, upon prayer of the said prosecutor, the treasurer of the county riding or division in which the offence shall have been committed, or shall have been supposed to have been committed, to pay unto such prosecutor such sum of money as to the said court shall seem reasonable, not exceeding the expences which it shall appear to the court the prosecutor was *bona fide* put unto in carrying on such prosecution, making, in case the said prosecutor shall appear to the court to be in poor circumstances, a reasonable allowance to such prosecutor for trouble and loss of time; which order the clerk of assize or clerk of the peace respectively is hereby directed and required forthwith to make out and deliver unto such prosecutor upon being paid for the same the sum of one shilling and no more; and the treasurer of the said county riding or division is hereby authorised and required upon sight of such order forthwith to pay to such prosecutor or other person authorised to receive the same such sum of money as aforesaid, and shall be allowed the same in his accounts.

Court may order the Treasurer of the County, &c. to pay the Prosecutor his Expences, and an Allowance for Loss of Time.

VIII. And be it further enacted by the authority aforesaid, That it shall and may be in the power of the court where any person shall appear on recognisance or subpœna to give evidence as to any grand or petit larceny or other felony, whether any bill of indictment be preferred or not to any grand jury, provided the said person shall in the opinion of the said court *bona fide* have attended the said court in obedience to such recognisance or subpœna, to order the treasurer of the county riding or division in which the offence shall have been committed, or shall have been supposed to have been committed, to pay unto such person such sum of money as to the said court shall seem reasonable, not exceeding the expences which it shall appear to the said court the said person was *bona fide* put unto by reason of the said recognisance and subpœna, making, in case the said person shall appear to the court to be in poor circumstances, a reasonable allowance to such person for trouble and loss of time; which order the clerk of the assize or clerk of the peace respectively is hereby directed and required forthwith to make out and deliver to such person, upon being paid for the same the sum of sixpence and no more; and the treasurer of the said county riding or division is hereby authorised and required upon sight of such order forthwith to pay to

Persons appearing to give Evidence, allowed their Expences, &c.

such person or other person authorised to receive the same such sum of money as aforesaid, and shall be allowed the same in his accounts.

IX. Provided nevertheless and be it further enacted, That it shall and may be lawful for his Majesty's justices of the peace in and for any county riding division city town corporate franchise or liberty in quarter sessions assembled to lay down or alter from time to time such rules and regulations as to any costs or charges thereafter to be allowed to any person whatsoever by virtue of any part of this Act for the better carrying the intent of any part of this Act into execution and for the preventing any unnecessary expence as to them shall seem most just and reasonable; which rules and regulations having received the approbation and signature of one or more of his Majesty's judges of oyer and terminer or general gaol delivery at the assizes for the county wherein such rules and regulations shall have been made shall be binding and not otherwise on all persons whatsoever; and no person whatsoever shall be allowed any greater sum of money by virtue of this Act than according to the said rules and regulations so approved of as aforesaid; any thing herein contained to the contrary thereof in any wise notwithstanding.

Quarter Sessions to make Regulations for allowing, &c. which are to be approved by one of the Judges, &c.

X. And be it further enacted by the authority aforesaid, That if any action or suit shall be commenced against any person or persons for any thing done in pursuance of this Act, that then and in every such case the action or suit shall be brought within six calendar months next after the fact committed; and the defendant or defendants in such action or suit may plead the general issue and give this Act and the special matter in evidence at any trial to be had thereupon and that the same was done in pursuance and by the authority of this Act: And if it shall appear so to have been done, the jury shall find for the defendants; and if the plaintiff shall be nonsuit, or discontinue his action after the defendant or defendants shall have appeared, or if judgment shall be given upon any verdict or demurrer against the plaintiff, the defendant and defendants shall and may recover treble costs, and have the like remedy for the same as the defendant or defendants hath or have in other cases by law.

Limitation of Actions.

General Issue.

Treble Costs.

I. *Form of awarding Costs.*

County or Borough, &c. to wit. } ‘I one (*or*, we and being two) of his Majesty's Justices ‘of the Peace in and for the aforesaid, ‘in pursuance of an Act, made in the eighteenth year of his Majesty ‘King *George* the Third, intituled *An Act for the Payment of Costs to ‘Parties, on Complaints determined before Justices of the Peace out of Sessions; for the Payment of the Charges of Constables in certain Cases; ‘and for the more effectual Payment of Charges to Witnesses and Prosecutors of any Larceny, or other Felony*; on the Complaint of ‘ [*here state the Names of the Parties and the Offence generally and the Date*] against for ‘which said complaint was heard and determined by ‘on the day of do award the ‘following Costs to be paid by *videlicet*, ‘[*here state the Costs.*] Given under hand and seal ‘(*or*, hands and seals) this day of ‘in the year of our Lord

II. *Form of Warrant of Distress and Sale.*

To the Constable of and to all other his Majesty's Constables in and for in aforesaid. } *to wit.*

‘WHEREAS of his Majesty's ‘Justices of the Peace in and for the ‘aforesaid, in pursuance of an Act made in the eighteenth year of ‘his Majesty King *George* the Third, intituled *An Act for the Payment ‘of Costs to Parties, on Complaints determined before Justices of the Peace ‘out of Sessions; for the Payment of the Charges of Constables in certain ‘Cases; and for the more effectual Payment of Charges to Witnesses and*

No. II.
18 Geo. III. c. 19.

'*Prosecutors of any Larceny, or other Felony;* have awarded on the
' of now last past, on the
' complaint of against for
' the following Costs to be paid by
' *videlicet,* [*here state the Sum:*] And whereas the said
' being ordered by the said
' Justice (*or*, Justices) to pay such sum (*or*, sums) as aforesaid, hath not
' paid down or given security for the same, to the satisfaction of
' the said Justice (*or*, Justices): These are therefore
' to command you and each and every of you to levy the said sum of
' by distress and sale of the goods and
' chattels of the said and do hereby
' order and direct the goods and chattels so to be distrained to be sold
' and disposed of within days, unless the said sum
' of for which such distress shall be made,
' together with the reasonable charges of taking and keeping such dis-
' tress shall be sooner paid; and you are hereby also commanded to cer-
' tify unto what you shall have done by virtue
' of this Warrant. Given under hand and
' seal (*or*, hands and seals) at the
' day of in the year of our Lord

III. *Constable's Return thereon, for Want of Distress.*

to wit. } ' I constable of
' do hereby certify to
' Justice (*or*, Justices) of the Peace of that I
' have made diligent search for, but do not know nor can find any
' goods and chattels of by distress
' and sale whereof I may levy the sum
' pursuant to Warrant for that purpose, dated
' the day of
' Given under my hand, this day of
' in

IV. *Commitment thereupon to the House of Correction.*

to wit. } *To the Constable of* *and also to the*
Keeper of the House of Correction at

' WHEREAS, in pursuance of an Act made in the eighteenth year of
' his Majesty King *George* the Third, intituled *An Act for the*
' *Payment of Costs to Parties, on Complaints determined before Justices of*
' *the Peace out of Sessions; for the Payment of the Charges of Constables in*
' *certain Cases; and for the more effectual Payment of Charges to Wit-*
' *nesses and Prosecutors of any Larceny, or other Felony;*
' of his Majesty's Justices of the Peace, in and for the said
' warrant of distress and sale, directed to
' of constable of
' the said of ordering the
' said constable to levy the said sum of
' of the goods and chattels of the said in
' manner and form as therein is mentioned: And whereas it appears to
' by the return of constable of
' dated the day of
' that he hath made diligent search, but doth not know of nor can find
' any goods and chattels of the said by
' distress and sale whereof the said sum of
' may be levied, pursuant to the said Warrant: These are therefore to
' command you, the said constable of to appre-
' hend the said and convey the said
' to the said house of correction at
' and to deliver the said there to the said
' keeper of the said house of correction: And these are also to command
' you, the said keeper of the said house of correction, to receive the said
' into the said house of correction, and there to

'keep to hard labour for the space of from the
'date hereof, or until such sum of together
'with the expences attending the commitment of the said
'to the said house of correction be first paid, or until
'the said be discharged by due course of law.
'Given under hand and seal (*or*, hands and
'seals) at the day of

No. II.
18 Geo. III.
c. 19.

[No. III.] 33 George III. c. 55.—An Act to authorize Justices of the Peace to impose Fines upon Constables, Overseers, and other Peace or Parish Officers, for Neglect of Duty, and on Masters of Apprentices for ill Usage of such their Apprentices; and also to make Provision for the Execution of Warrants of Distress granted by Magistrates.—[21*st June* 1793.]

[Inserted ante, title *Apprentices*, p. 89.]

[No. IV.] 41 George III. c. 78.—An Act to extend the Powers of an Act, passed in the Twenty-seventh Year of the Reign of his late Majesty King *George* the Second, intituled *An Act for the better securing to Constables and others the Expences of conveying Offenders to Gaol, and for allowing the Charges of Poor Persons bound to give Evidence against Felons;* and for allowing to High Constables, in that Part of the United Kingdom called *England*, their Charges in certain Cases.—[27*th June* 1801.]

41 George III. c. 78.
27 Geo. 2. c. 3.

'WHEREAS by an Act made in the twenty-seventh year of the reign of his late Majesty King *George* the Second, intituled *An Act for the better securing to Constables and others the Expences of conveying Offenders to Gaol, and for allowing the Charges of Poor Persons bound to give Evidence against Felons*, it is enacted, That when any person, not having goods or money within the county where he is taken sufficient to bear the charges of himself and of those who convey him, is committed to gaol or the house of correction by warrant from any justice or justices of the peace, then on application by any constable or other officer who conveyed him to any justice of the peace for the same county or place, he shall upon oath examine into and ascertain the reasonable expences to be allowed such constable or other officer, and shall forthwith without fee or reward by warrant under his hand and seal order the treasurer of the county or place to pay the same, which the said treasurer is hereby required to do as soon as he receives such warrant; and any sum so paid shall be allowed in his accounts: And whereas it is expedient in certain cases that constables specially appointed by justices of the peace to execute any warrant or warrants should be paid the reasonable charges and expences incurred by them as well in respect of searching for and apprehending offenders as in conveying such offenders to gaol: And whereas it is also expedient that high constables should in certain cases be allowed the extraordinary charges and expences by them incurred; May it therefore please your Majesty that it may be enacted,' and be it enacted and declared by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and

When Special Constables shall be appointed in England to execute Warrants in Cases of Felony, two Justices may order proper Allowances to be made for their Expences and Loss of Time, which Order shall be submitted to Quarter Sessions.

No. IV.
41 Geo. III. c. 78.

after the passing of this Act it shall and may be lawful to and for any two justices of the peace for any county city division riding or place within that part of the United Kingdom called *England*, when any person or persons shall have been nominated or appointed a special constable or special constables for the purpose of executing any warrant or warrants in any case or cases of felony, to order by any writing or writings under their hands such proper allowances to be made to such special constable or special constables for his or their expences trouble and loss of time in executing or endeavouring to execute such warrant or warrants as to him or them shall seem reasonable and necessary; which orders shall be afterwards laid before and submitted on the oath of such special constable or constables to the consideration of the justices assembled at the next general quarter sessions of the peace to be holden for such county city division riding or place, as the case may be; and the justices so assembled at such general quarter sessions may allow or disallow the whole or any part or parts of such allowances so ordered by such justices issuing such warrant or warrants, and shall and may thereupon then order and direct the treasurer for such county city division riding or place to pay such sum or sums of money to such special constable or special constables as to the said justices so assembled shall seem reasonable and necessary; and such treasurer shall and he is hereby authorised and required forthwith to pay the sum and sums of money so ordered and directed to be paid to the person or persons empowered to receive the same; and such treasurer shall be allowed the same in his accounts.

Two Justices in like Manner may order Allowances to be made to High Constables in England for extraordinary Expences incurred in the Execution of their Duties, in Cases of Riot or Felony, &c.

II. And be further enacted, That it shall and may be lawful to and for any two justices of the peace within their respective jurisdictions to order and direct by any writing or writings under their hands such reasonable and necessary allowances to be made to any high constable or high constables for any county city division riding hundred or place within that part of the United Kingdom called *England*, for any extraordinary expences incurred by him or them in the execution of their respective duties in any case or cases of tumult riot or felony; and such orders shall be laid before and submitted on the oath of such high constable or constables to the consideration of the justices assembled at the next general quarter sessions of the peace to be holden for such county city division riding or place, as the same may be; and the justices so assembled at such general quarter sessions may allow or disallow the whole or any part or parts of such allowance so ordered, and shall and may then order and direct the treasurer for such county city division riding or place to pay such sum or sums of money to such high constable or high constables as to the said justices so assembled shall seem reasonable; and such treasurer shall and he is hereby authorised and required forthwith to pay the sum or sums of money so ordered and directed to be paid to the person or persons empowered to receive the same; and such treasurer shall be allowed the same in his accounts.

[No. V.] 1 Geo. IV. c. 37.—An Act to increase the Power of Magistrates in the Appointment of Special Constables.—[*8th July* 1820.]

1 Geo. IV. c. 37.

WHEREAS doubts have arisen whether any person or persons can be compelled to act as special constables, except in any actual tumult riot or felony: And whereas it is expedient that justices of the peace should have the power of compelling certain persons to act as special constables not only in case of actual tumult riot or felony, but also on the reasonable apprehension thereof for the prevention of the same: Be it enacted and declared by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act, in all cases where it shall be made to appear to any two or more justices of the peace acting for any county city division riding or place, by the information on oath of

Cases in which Magistrates are empowered to appoint Special Constables;

No. V.
1 Geo. IV.
c. 37.

five respectable householders of such county city division riding or place, that any tumult riot or felony has taken place or is likely to take place and may reasonably be apprehended, such justices may and are hereby authorised to call upon nominate and appoint by precept in writing under their hands any householders or other persons (not legally exempt from serving the office of constable) residing within their respective divisions or the neighbourhood thereof, to act as special constables for such time and in such manner as to the said justices shall seem fit and necessary for the preservation of the public peace, and for the prevention or suppression of any tumult riot or felony; and the said justices are hereby empowered to administer to such person so appointed the usual oaths administered by law to all special constables.

II. And be it further enacted, That in case any person (not legally exempted as aforesaid) so called upon nominated and appointed by such justices as aforesaid, shall neglect or refuse to take upon themselves the office and to act as such special constable, such person so neglecting or refusing shall be liable to such and the same fines penalties and punishments as persons refusing to take upon themselves the office of constable are now by law subject to.

Who are compelled to act, under the same Penalties for Refusal as Constables.

III. And be it further enacted, That it shall and may be lawful for the justices of the peace assembled at the general or quarter sessions holden for any county city division riding or place where special constables shall have been called out as aforesaid, to order and direct such reasonable allowances for trouble and expences to be made to any person or persons so called out by authority of this Act as to the said justices shall seem fit, which allowance the said justices may order the treasurer of such county city division riding or place to pay to such persons as the said justices shall direct; and such treasurer shall and he is hereby authorised and required forthwith to pay the sum or sums of money so ordered and directed to be paid to the person empowered to receive the same, and such treasurer shall be allowed the same in his accounts.

Justices at Sessions to give Allowance to said Special Constables.

IV. And be it further enacted, That the court before which any indictments may be tried under the provisions of this Act shall have the power to award reasonable costs of trial to such persons as may prefer the said indictments, and may order the treasurer of such county city division riding or place, wherein such indictment shall be tried, to pay the sum or sums of money so ordered to such persons as the said court shall direct; and such treasurer shall and he is hereby authorised and required forthwith to pay the sum or sums of money so ordered and directed to be paid to the persons empowered to receive the same; and such treasurer shall be allowed the same in his accounts.

Court may allow Costs.

V. And be it further enacted, That this Act shall be deemed and taken to be a public Act, and shall be judicially taken notice of as such by all judges justices and others without being specially pleaded.

Public Act.

PART VI.

CLASS X.

Costs.

18 George III. c. 19.—An Act for the Payment of Costs to Parties, on Complaints determined before Justices of the Peace out of Sessions; for the Payment of the Charges of Constables in certain Cases; and for the more effectual Payment of Charges to Witnesses and Prosecutors of any Larceny or other Felony.

[Inserted ante, title *Constables*, p. 139.]

PART VI.

CLASS XI.

County Rate.

[No. I.] 12 Geo. II. c. 29.—An Act for the more easy assessing, collecting and levying of County Rates.

12 George II. c. 29.

22 Hen. 8. c. 5.

1 Annæ, stat. 1. c. 18.

11 & 12 W. 3. c. 33.

7 Jac. I. c. 4.

'WHEREAS by an Act passed in the twenty-second year of the reign of King *Henry* the Eighth for repairing and amending bridges and highways: And whereas by another Act passed in the first year of the reign of her late Majesty Queen *Anne* to explain and alter the said Act, it is for the more easy taxing and collecting the money for the repair of such bridges and highways thereunto adjoining (amongst other things) enacted, That the justices of the peace within the several limits of their commissions shall at their general or quarter sessions of the peace have full power and authority, upon due presentment to them made that any bridge within their respective commissions or authorities is out of repair and which by them hath usually or ought to have been repaired and maintained, to make assessments upon every town parish or place within their respective commissions for that purpose, in proportions upon each respective town and parish as they usually have been assessed towards the repair of bridges; which assessments are to be levied and collected in the manner prescribed by the said Act: And whereas by an Act passed in the eleventh and twelfth years of the reign of his late Majesty King *William* the Third, to enable justices of the peace to build and repair gaols in their respective counties, it is (amongst other things) enacted, That it shall and may be lawful for the justices of the peace or the greater number of them within the limits of their commissions, upon presentment of the grand jury or grand juries at the assize great sessions and general gaol delivery held for the same county, of the insufficiency or inconveniency of their gaol or prison, to conclude and agree upon such sum or sums of money as upon examination of able and sufficient workmen shall be thought necessary for the building finishing and repairing a public gaol or gaols belonging to the shire or county whereof they are justices of the peace; and by warrant under their hands and seals or under the hands and seals of the greater number of them, by equal proportions to distribute and charge the sum or sums of money to be levied for the uses aforesaid upon the several hundreds lathes wapentakes rape ward or other division of the said county in the manner prescribed by the said Act; which said Act was revived and continued by an Act passed in the tenth year of the reign of her late Majesty Queen *Anne* for seven years and to the end of the then next session of Parliament, and made perpetual by an Act of the sixth year of the reign of his late Majesty King *George* the First: And whereas by an Act passed in the seventh year of the reign of King *James* the First, for the due execution of divers laws and statutes heretofore made against rogues vagabonds and sturdy beggars and other lewd and idle persons, it is (amongst other things) enacted, That there shall be erected built or otherwise provided within every county of this realm of *England* and *Wales*, where there is not one house of correction already built provided or continued, one or more fit and convenient house or houses of correction by the justices of the peace or the more part of them at their respective quarter sessions; and that the master or governors of the said houses of correction shall have such sums

No. I.

12 Geo. II. c. 29.

'of money yearly as shall be thought meet by the said justices; the 'same to be paid quarterly before hand by the treasurers appointed by an 'Act made in the three-and-fortieth year of the late Queen *Elizabeth*, 'intituled, *An Act for the Relief of the Poor*; which said Act was to 'continue for seven years and till the end of the next session of Parlia- 'ment, and was further continued by an Act passed in the third year of 'the reign of King *Charles* the First, intituled *An Act for the Continu- 'ance and Repeal of divers Statutes*, unto the end of the first session of the 'next Parliament; and by an Act passed in the sixteenth year of the 'same reign continued in force until repealed by some other Act of Par- 'liament: And whereas by an Act passed in the forty-third year of the 'reign of Queen *Elizabeth*, intituled *An Act for the Relief of the Poor*, 'it is (amongst other things) enacted, That the justices of the peace of 'every county or place corporate or the more part of them in their gene- 'ral sessions to be holden next after the Feast of *Easter*, and so yearly as 'often as they shall think meet, shall rate every parish to such a weekly 'sum of money as they shall think convenient, so as no parish be rated 'above the sum of sixpence nor under the sum of an halfpenny weekly 'to be paid, and so as the total sum of each taxation of the parishes in 'every county amount not to above the rate of two pence for every pa- 'rish within the said county: and it is thereby likewise enacted, That 'the justices of the peace at their general quarter sessions to be holden 'at the time of such taxation shall set down what competent sums of 'money shall be sent quarterly out of every county or place corporate for 'the relief of the poor prisoners of the *King's Bench* and *Marshalsea*; 'and also of such hospitals and alms-houses as shall be in the said 'county, and what sums of money shall be sent to every one of the said 'hospitals and alms-houses; so as there be sent out of every county 'yearly twenty shillings at the least to each of the said prisons of the '*King's Bench* and *Marshalsea*; which sums are rateably to be assessed 'upon every parish and to be levied and collected as in and by the said Act 'is directed: And whereas by an Act passed in the fourteenth year of the 'reign of Queen *Elizabeth*, intituled *An Act how Vagabonds shall be 'punished and the Poor relieved*, it is enacted, That the justices of the 'peace of every county or the more part of them in their general quarter 'sessions shall rate every parish at such reasonable sums of money for 'the relief of prisoners as they shall think convenient, so as no parish 'be rated above six pence or eight pence weekly; and the churchwardens 'of every parish shall levy the same every *Sunday*, and once in every quar- 'ter pay the said sums to the high constable or other head officers; and 'the said high constables and head officers shall pay the money received 'of the said churchwardens to such person as shall be appointed by the 'said justices in sessions, to be by them distributed weekly for the relief 'of prisoners; so much of which said Act as relates to the taxing levy- 'ing receiving and employing of gaol money was revived and continued 'to the end of the next session of Parliament by an Act passed in the 'first year of the reign of King *James* the First, intituled *An Act 'for continuing and reviving of divers Statutes and for repealing of some 'others*; and was further continued by an Act passed in the twenty- 'first year of the reign of the said King *James*, intituled *An Act for con- 'tinuing and reviving of divers Satutes and repealing of divers others*; and 'was further continued to the end of the next session of Parliament by 'an Act passed in the third year of the reign of King *Charles* the First, 'intituled *An Act for the Repeal and Continuance of divers Statutes*; and 'by an Act passed in the sixteenth year of the same reign was continued 'in force until repealed by some other Act of Parliament: And whereas 'by an Act passed in the nineteenth year of the reign of King *Charles* 'the Second, intituled, *An Act for Relief of poor Prisoners and setting 'them on Work*, it is (amongst other things) enacted, That the justices 'of the peace at their general sessions or the major part of them if they 'think fit may provide a stock of materials for setting poor prisoners on 'work, in such manner and by such ways as other county charges are 'levied and raised, and provide and pay fit persons to oversee such work

43 Eliz. c. 2.

14 Eliz. c. 5.

19 Car. II. c. 4.

No. I.
12 Geo. II. c. 29.

12 Annæ. st. 2. c. 23.

'and make such orders concerning the premises as they from time to 'time shall think fit, provided that no parish be rated above six pence by 'the week towards the premises: And whereas an Act passed in the 'twelfth year of the reign of her late Majesty Queen *Anne* for reducing 'the laws relating to rogues sturdy beggars and vagrants into one Act of 'Parliament, and for the more effectual punishing such rogues vaga-'bonds sturdy beggars and vagrants and sending them whither they 'ought to be sent, it is (amongst other things) enacted, That the justices 'of the peace at their quarter sessions may from time to time when need 'shall be, by such ways and means as monies for county gaols or bridges 'may be raised, cause such sums of money to be raised within their re-'spective precincts and jurisdictions for the passing and conveying or 'maintaining of rogues and vagabonds as shall be necessary for those 'purposes: which said several rates when collected are to be paid by vir-'tue of the said several Acts into the hands of treasurers or receivers to be 'appointed by the justices at their respective general or quarter sessions of 'the peace, and to be accounted for as in and by the said several respective 'Acts are recited: And whereas it is apparent that the manner and me-'thods prescribed by the said several Acts for collecting some of the said 'rates are impracticable, the sums charged on each parish in the respective 'divisions being so small that they do not by an equal pound rate amount 'to more than a fractional part of a farthing in the pound on the several 'persons thereby rateable; and if possible to have been rated, the expence 'of assessing and collecting the same would have amounted to more than 'the sum rated: And whereas many and great doubts difficulties and incon-'veniences have arisen in making and collecting other of the said rates; 'therefore that the good ends and purposes of the said several statutes 'may be answered and the several sums of money thereby intended to 'be raised may effectually be collected with as much ease and certainty 'and as little expence as can be to the parties obliged by the said laws to 'pay the same;' Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the first day of *September* one thousand seven hundred and thirty-nine the justices of the peace in that part of *Great Britain* called *England*, within the respective limits of their commissions at their general or quarter sessions, (1.) or the greater part of them then and there assembled, shall have full power and authority from time to time to make one general rate or assessment for such sum or sums of money as they in their discretions shall think sufficient to answer all and every the ends and purposes of the before-recited Acts, instead and in lieu of the several separate and distinct rates directed thereby to be made levied and collected; which rate shall be assessed

Justices to make general Assessment, instead of the several Rates appointed by several Acts.

The Power of the Justices is extended to 13 *Geo.* 2. *c.* 18.

(1.) A Charter granting jurisdiction to Borough Justices over a district not within the borough, without words of exclusive jurisdiction, does not exclude the County Justices from rating the district to a County Rate: therefore, where, by Charters Ed. 4. & H. 7. to the Borough of Leicester, the Borough Justices have exclusive jurisdiction within the Borough, with a non-intromittant as to the County Justices; and by another Charter, Eliz. all houses, &c. within the Parish of St. Mary in Leicester, are put upon the government and jurisdiction of the Borough Justices, saving to all persons their rights and jurisdictions: Held: that the Justices for the County of Leicester might well impose a County Rate upon a part of the parish of St. Mary, which lies within the County, and not within the Borough, although a Rate in the nature of a County Rate had been previously imposed for the same time by the Borough Justices; and although it appeared that in one instance only, in 1684, this part of the parish had contributed to the Rate for the County at large, and that from 1768 to the present time, Rates in the nature of County Rates had been assessed upon the parish at large by the Borough Justices; for before the Charter of Eliz. this part of the parish could not have been contributory to the Borough Rates, and must have been by law contributing to the County Rates, and the Charter did not vary the place to which it should contribute from the County to the Borough; and though there was no poor rate, or petty constable, or other peace officer for this part of the parish, out of which the rate might be levied by Stat. 12 Geo. 2. c. 29. yet the Statute does not on that account transfer the right from the County to the Borough Justices, and the 44 Geo. 3. c. 84. § 9 (local act) supplies any defect which there might be in 12 Geo. 2. c. 29. to warrant the levy. Bates *v.* Winstanley, 4 M. & S. 429.

No. I.
12 Geo. II.
c. 29.

upon every town parish or place within the respective limits of their commissions in such proportions as any of the rates heretofore made in pursuance of the said several Acts have been usually assessed; and the several and respective sums so assessed upon each and every town parish or place within the respective limits of their commissions shall be collected by the high constables of the respective hundreds and divisions in which any town parish or place doth lie in such manner and at such times as is herein-after directed.

II. And that the respective sum or sums so to be assessed and collected may be well and truly paid to the respective high constables, Be it further enacted by the authority aforesaid, That the churchwardens and overseers of the poor for the time being of each and every parish and place within the respective counties cities and liberties in which they respectively lie, shall and they are hereby required out of the money collected or to be collected for the relief of the poor of such parish or place, to pay to the high constables of the respective hundreds or divisions of the said counties cities and liberties the respective sum or sums of money so rated and assessed upon such parish or place within the space of thirty days after demand thereof made in writing to be given to the said churchwardens or overseers of the poor or any of them, or left at their or either of their dwelling-house or houses or affixed on any of the church-doors of such parish or place to which such officer shall belong, by the said high constable or high constables of the respective hundreds or divisions; which demand the respective high constable or high constables is and are hereby required to make at such times as the said justices of the peace or the greater part of them shall by their order in sessions direct; and the receipt or receipts of such high constable or high constables shall be a full and sufficient discharge to such churchwardens and overseers of the poor or other person paying the same, and shall be allowed in their accounts as such by the justices of the peace before whom such account shall be passed: And in case such churchwardens and overseers of the poor or any of them shall neglect or refuse to pay any the sum or sums of money hereby assessed after demand made as aforesaid, such high constable or high constables shall and they are hereby empowered to levy the same by distress and sale of the goods and chattels of such churchwardens and overseers or either of them, so refusing or neglecting to pay the same as aforesaid, by warrant under the hands and seals of two or more justices of the peace of the county riding division city town corporate liberty or place residing in or near such parish or place; rendering the overplus, if any there shall be after deducting the money assessed and the charges of the distress and sale, to the owner or owners thereof.

To be paid out of the Poor's Rate of every Parish to the High Constable;

or to be levied on them by Distress.

III. Provided nevertheless and be it enacted by the authority aforesaid, That in case no rate is or shall be made for the relief of the poor in any parish township or place, the justices of the peace in their respective general or quarter sessions, or the greater part of them then and there assembled, shall and may by their order direct the sum of money assessed on such parish township or place for the purposes of this Act to be rated and levied on any such parish township or place by any petty constables or other peace officer of or belonging to the same in such manner as money for the relief of the poor is by law to be rated or levied; which sum so rated and levied shall be paid by such petty constable or other peace officer to the respective high constable for the hundred division or liberty wherein such parish township or place shall lie, and shall be demanded of paid by or levied on such petty constable or other peace officer in the same manner as any rates are herein-before directed to be demanded of paid by and levied on the churchwardens and overseers of the poor or any of them; and if such petty constable or other peace officer shall pay such sum before the same shall be so by him rated and levied as aforesaid, he may afterwards rate and levy the same or shall and may be allowed and reimbursed the said sum of money out of any constables or other rate made or to be made on any such parish township or

Where there is no Poor's Rate the Petty Constable of the Place to levy and pay the County Rate.

No. I.
12 Geo. II. c. 29.

place which the said justices of the peace or the greater part of them in their sessions shall order and direct. (2.)

IV. 'And whereas it will be very inconvenient to many towns parishes 'and places in the several counties of *York Derby Durham Lancaster* '*Chester Westmoreland Cumberland* and *Northumberland*, that the rates 'by this Act directed to be paid by and levied on the churchwardens 'and overseers of the poor for the purposes aforesaid should be paid out 'of any rate to be made for the relief of the poor in such towns parishes 'and places;' Be it therefore enacted by the authority aforesaid, That it shall and may be lawful to and for the justices of the peace for the respective ridings divisions or counties of *York Derby Durham Lancaster Chester Westmorland Cumberland* and *Northumberland* at their respective general or quarter sessions, or the greatest part of them then and there assembled, if they shall think convenient, to order the sum of money directed to be assessed on any such town parish or place for all or any of the purposes of this Act to be paid by and levied on the petty constable of or for any such town parish or place within the said counties respectively, in such manner as the same is herein directed to be paid and levied in cases where no rate is made for the relief of the poor; any thing herein contained or any law usage or custom to the contrary notwithstanding.

Counties excepted from paying the Rate of this Act out of the Poor's Rate.

V. Provided always and be it enacted by the authority aforesaid, That this Act or any thing herein contained shall not extend or be construed to extend to make any persons liberties divisions or places liable to pay to any rate to be made in pursuance of this Act, to which such person liberty division or place did not or was not liable to contribute before the passing hereof; but that it shall and may be lawful to and for the justices of the peace at their respective general or quarter sessions, or the greater part of them then and there assembled, to order and ascertain what proportion of any rate to be made by virtue of this Act shall be assessed on and paid by the several persons liberties divisions and places who have usually contributed or are liable to pay only to one or more of and not to all the rates hereby intended to be raised and thrown into one general rate or assessment.

Proviso in favour of Places heretofore not paying County Rates.

VI. And be it further enacted by the authority aforesaid, That the respective high constables shall and they are hereby required at or before the next general or quarter sessions respectively, after they or any of them shall have received such sum or sums of money, to pay the same into the hands of such person or persons (being resident in any such county riding division city liberty or place where such rates shall be respectively made) whom the said justices shall at their respective general or quarter sessions, or the greater part of them then and there assembled, appoint to be the treasurer or treasurers (which treasurer or treasurers they are hereby authorised and empowered to nominate and appoint), such treasurer or treasurers first giving sufficient security in such sums as shall be approved of by the said justices at their respective general or quarter sessions, or the greater part of them then and there assembled, to be accountable for the several and respective sums of money which shall be respectively paid to them in pursuance of this Act, and to pay such sum or sums of money as shall be ordered to be paid by the justices in their general or quarter sessions, and for the due and faithful executions of the

High Constables to pay the Monies to the Treasurers appointed by the Quarter Sessions,

(2.) Where, before the Stat. 12 Geo. 2. c. 29. the County Rates had been assessed upon the entire district or place of Hartishead with Clifton; but the two townships of H. & C. separately maintained their own poor, and were used to contribute towards the County Rates in certain fixed proportions between themselves; yet, as that Statute only establishes the accustomed proportion of contribution to the County Rates as between the entire districts which were before assessed to such Rates within the limits of the respective Counties, &c. and does not meddle with the proportions which had used to be observed as between the subdivisions of those districts, this case was by the Court held to fall within the third section, which provides that where there is no poor's rate in the parish, township, or place assessed to the County Rates (by which must be understood no entire poor's rate co-extensive with the place or district assessed to the County Rates) the County Rates shall be raised by the petty constables in such manner as by law the poor's rate is to be assessed and levied; that is, by an equal rate on all the inhabitants, &c. Rex *v.* West Riding of Yorkshire (Justices), 12 E. R. 117.

trusts reposed in him or them; and all and every such sum or sums of money as shall be paid into his or their hands by virtue of and in pursuance of this Act shall be deemed and taken to be the publick stock; and the said treasurer or treasurers shall and are hereby required to pay so much of the money in their hands to such person and persons as the said justices at their respective general or quarter sessions, or the greater part of them then and there assembled, shall by their orders from time to time direct and appoint, for the uses and purposes of the said recited Acts, and for any other uses (3.) and purposes to which the publick stock of any county city riding division or liberty is or shall be applicable by law.

and they to whom the Justices shall direct.

VII. And be it further enacted by the authority aforesaid, That the said respective treasurer or treasurers shall and are hereby required to keep books of entries of the several sums respectively received and paid by him or them in pursuance of this Act; and is and are also hereby required to deliver in true and exact accounts upon oath if required (which oath the said justices at their respective general or quarter sessions are hereby empowered to administer) of all and every the sum and sums of money respectively received and paid by him or them, distinguishing the particular uses to which such sum or sums of money have been applied, to the justices at every general or quarter sessions respectively to be holden within the limits of their commissions; and shall lay before the justices at such sessions the proper vouchers for the same.

Treasurers to keep Books of Entries, and account upon Oath.

VIII. And be it further enacted by the authority aforesaid, That the respective high constables shall and they are hereby required to demand and levy such rates and assessments in manner before directed, and shall account for the same before the said justices at their respective general or quarter sessions if thereunto required, in the like manner as the said treasurer or treasurers is and are hereby directed to account; and in case such high constables or any of them shall neglect or refuse so to demand levy or account, then it shall and may be lawful to and for the said justices at their respective general or quarter sessions or the greater part of them then and there assembled, to commit such high constable or high constables to the common gaol of the county riding division city town corporate liberty or place, there to remain without bail or mainprize until he or they shall have caused such rates or assessments to be demanded or levied, and shall have rendered a true account or accounts in the manner hereby directed; and in case it shall appear by such account or accounts that any sum or sums of money is or are remaining in his or their hands, which he or they shall have received of the respective churchwardens and overseers or other persons which ought to have been paid to the respective treasurer or treasurers at the time or times limited by this Act, or of the respective treasurer or treasurers, in order to be applied to the purposes aforesaid; and if he or they shall neglect or refuse to pay the same over into the hands of the respective treasurer or treasurers, or otherwise if thereunto required by order of the said justices at their respective general or quarter sessions, or the greater part of them then and there assembled; then it shall and may be lawful for the the said justices at such their general or quarter sessions, or the greater part of them then and there assembled, to commit such high constable or high constables to the common gaol of the county riding division city town corporate liberty or place, there to remain without bail or mainprize until he or they shall have made full payment of the sum or sums of money that shall appear to be due on such account or accounts; and all the accounts and vouchers of the said treasurers and high constables shall, after having been passed by the said justices at their respective general or quarter sessions, be deposited with the clerk of the peace for the time being of each county respectively, or the town clerk high bailiff

High Constables' Charge.

Penalty on Default.

Vouchers to be kept among the Records of the County, &c.

(3.) The Sessions may order Money to be paid out of the County Rate to defend the County, in litigating a fine imposed on them: Rex v. Inhab. of Essex, 4 T. R. 591; not for the expences of a Prosecution for a Misdemeanor, carried on under the direction of Justices of the County: R. v. West Riding of York, 7 T. R. 377.

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or chief officer of any city town corporate or liberty, who is and are hereby required to keep them among the records of such county city town corporate or liberty, to be inspected from time to time by any of the said justices within the limits of their commissions as occasion shall require without fee or reward.

What shall be their respective Discharge.

IX. And be it further enacted by the authority aforesaid, That the receipts of such respective treasurer or treasurers shall be sufficient discharges to all high constables; and the discharges of the said justices of the peace or the greater part of them by their orders made at their respective general quarter sessions to such treasurer or treasurers shall be deemed and allowed as good and sufficient releases acquittances or discharges in any court of law or equity to all intents and purposes whatsoever.

The Condition on which new Rates are to be made.

X. And be it further enacted by the authority aforesaid, That no new rate shall be made until it shall appear to the said justices at their respective general or quarter sessions, or the greater part of them then and there assembled, by the accounts of their respective treasurer or treasurers or otherwise, that three-fourths of the money collected by virtue of the preceding rate have been expended for the uses and purposes aforesaid.

Treasurer to be continued or removed at the Will of the Quarter Sessions.

XI. And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for the said justices of the peace at their respective general or quarter sessions, or the greater part of them then and there assembled, to continue from time to time such treasurer or treasurers in his or their office or offices so long as they shall see convenient, and to remove him or them at their pleasure, and appoint any other person or persons in his or their place: and to allow to him or them and every of them insisting on the same such reasonable sum or sums of money for his or their care and pains in the execution of such trust, not exceeding twenty pounds by the year, as they in their discretions shall think fit; which they are hereby empowered to direct the payment of out of the monies arising by the respective rates hereby appointed to be made.

Parishes over-rated to appeal.

XII. And be it further enacted by the authority aforesaid, That in case the churchwardens and overseers of any parish or place shall at any time have reason to believe the said parish or place is over-rated, such churchwardens and overseers may appeal to the respective justices of the peace at the next general or quarter sessions against such part of the rate only as may affect the parishes or places in which they serve such offices; which justices or the greater part of them then and there assembled are hereby authorised and empowered to hear and finally determine the same: Provided nevertheless, That upon such appeal such rate shall not be quashed or destroyed in regard to any other parishes or places assessed thereby.

No Repairs of Bridges, &c. but upon Presentments of the Grand Jury.

XIII. And be it further enacted by the authority aforesaid, That no part of the money to be raised and collected in pursuance of this Act shall be applied to the repair of any bridges gaols prisons or houses of correction, until presentments be made by the respective grand juries at the assize great sessions general gaol delivery or general or quarter sessions of the peace held for any county riding division city town corporate or liberty, of the insufficiency inconveniency or want of reparation of their bridges gaols prisons or houses of correction.

Justices to contract with Persons for public Repairs;

XIV. And be it further enacted by the authority aforesaid, That from and after the first day of *June* one thousand seven hundred and thirty-nine, when any publick bridges ramparts banks or cops or other works are to be repaired at the expence of any county city riding hundred division liberty or town corporate; it shall and may be lawful to and for the justices of the peace at their general or quarter sessions respectively, or the greater part of them then and there assembled, if they think proper and convenient after presentment to be made as aforesaid of the want of reparation of such bridges ramparts banks or cops, to contract and agree with any person or persons for rebuilding repairing and amending of such bridges ramparts banks or cops as shall be within their respective coun-

ties cities ridings hundreds divisions liberties or towns corporate, and all other works which are to be repaired and done by assessment on the respective counties cities ridings hundreds divisions liberties or towns corporate, for any term or terms of years not exceeding seven years, at a certain annual sum payment or allowance for the same; such contractor or contractors giving sufficient security for the due performance thereof, to the respective clerk of the peace for the time being, or the town clerk high bailiff or chief officer of any city town corporate or liberty; and that such justices at their respective general or quarter sessions shall give publick notice of their intention of contracting with any person or persons for rebuilding repairing and amending the bridges ramparts banks or cops and other works aforesaid; and that such contracts shall be made at the most reasonable price or prices which shall be proposed by such contractors respectively; and that all contracts when agreed to, and all orders relating thereto shall be entered in a book, to be kept by the respective clerk of the peace for the time being, or the town clerk high bailiff or chief officer of any city town corporate or liberty for that purpose; who is and are hereby required to keep them amongst the records of such county city town corporate or liberty, to be from time to time inspected at all seasonable times by any of the said justices within the limits of their commissions, and by any person or persons employed or to be employed by any parish township or place contributing to the purposes of this Act, without fee or reward.

upon public Notice.

XV. And it is hereby further enacted, That there shall be but one rate made and assessed by the justices of the peace of the county of *Middlesex* in the said county city and liberty of *Westminster* for the several purposes aforesaid, and for the repair of the gaol commonly called *New Prison* in the said county of *Middlesex*.

Justices to make but one Rate for Middlesex.

XVI. Provided nevertheless, That the justices of the peace for the city and liberty of *Westminster* at their general or quarter sessions to be holden for the same city or liberty, or the greater part of them then and there assembled, shall have full power to appoint the governor or master of the house of correction within the said city or liberty; who shall have such sum of money yearly as hath been accustomed for and towards the support and maintenance of the prisoners in his custody, who shall be sick or unable to work (not exceeding the present allowance of fifty pounds by the year) and direct the repairs and management thereof as they heretofore have done; and the treasurer or treasurers of the money arising by the rates in the said county of *Middlesex* and city and liberty of *Westminster*, hereby appointed to be collected, shall and is and are hereby required to obey all orders which shall from time to time be made by the said justices of the city and liberty, or the greater part of them then and there assembled at their general or quarter sessions, for the payment of any sum or sums of money for the allowance allotted to such governor or master of the house of correction and the repairs thereof; which orders shall be good and sufficient discharges to such treasurer or treasurers; any thing herein contained to the contrary thereof in any wise notwithstanding.

Proviso as to the House of Correction at Westminster.

XVII. And be it further enacted by the authority aforesaid, That the justices of the peace at their respective general or quarter sessions, or the greater part of them then and there assembled, shall be and are hereby empowered to oblige by their order or orders the respective high constables and petty constables, or any other person or persons who are or have been empowered to levy collect or receive any sum or sums of money by virtue of and for the purposes aforesaid, and who have any sum or sums of money in their hands, to account with them at their general or quarter sessions in such manner as high constables are directed to account by virtue of this Act; and in case such high constables or petty constables or other person or persons shall refuse to account or to pay over the money that shall remain in their or any of their hands, when thereunto required by order of the said justices or the greater part of them in their respective general or quarter sessions assembled; in either of the said cases the said justices shall have the like remedy against them or any of

Justices empowered to oblige Collectors to account,

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12 Geo. II. c. 29.

them, as they have against the high constables by virtue of this Act, for not accounting for or paying over the money remaining in their hands: And it shall and may be lawful to and for the said justices at their respective general or quarter sessions, or the greater part of them then and there assembled, and they are hereby empowered to direct and order the payment of the respective sums of money which shall appear to be remaining due and not applied or disposed of into the hands of the respective treasurer or treasurers to be appointed by this Act; which shall be deemed to be part of the stock of the said counties cities ridings divisions liberties or places respectively; and to inquire what sums of money are due and owing for the purposes aforesaid: and then to order the payment of such sums as shall appear to them upon such inquiry to be justly due and owing.

and to order the Monies unapplied to be paid to the Treasurer.

No Action against Persons collecting on Rates discharged by *Certiorari*, &c.

XVIII. And be it further enacted by the authority aforesaid, That no action or suit shall be commenced or prosecuted against any person or persons who has or have been or shall be employed in the collecting or receiving any money in pursuance of the said recited Acts or this present Act, on any rate or rates which has or have been or shall be quashed or discharged on any *certiorari* brought or to be brought in any of his Majesty's courts of record at *Westminster* or otherwise for any money collected or received or to be collected or received on any such rate or rates before such writ of *certiorari* was or shall be brought and allowed; and that justice may be done to such persons who shall or may pay towards any rate which shall be quashed or discharged, the several sums of money which shall appear to have been paid by them on such rate either in whole or in part more than they ought to have paid shall be repaid or allowed to them in the next rate or rates which shall be made in pursuance of this Act, as if the same had been paid on such new rate or rates; any thing in any former Act, or any law usage or custom to the contrary thereof in any wise notwithstanding.

but the Persons over-rated to be relieved.

Collectors obliged to Payment.

XIX. Provided nevertheless, and it is hereby further enacted, That all and every such person and persons so employed or to be employed shall account for and pay over the money by them respectively received, in the same manner and under the like penalties for any neglect or refusal therein as are to be inflicted by virtue of this Act on any person or persons neglecting or refusing to account for or pay over any money remaining in his or their hands, which he or they have received in pursuance thereof; any thing in any of the said recited Acts contained to the contrary thereof in any wise notwithstanding.

XX. And be it further enacted by the authority aforesaid, That the justices of the peace for the said county of *Middlesex* at their general sessions of the peace to be holden for the said county shall have the same powers and authorities to put this Act in execution as are hereby given them at their general quarter sessions; any thing in this or any former Act, or any law usage or custom to the contrary notwithstanding.

Certiorari on what Terms issuable.

XXI. And be it further enacted by the authority aforesaid, That no writ of *certiorari* to remove any rates made in pursuance of this Act, or to remove any orders or other proceedings taken or made by the said respective general or quarter sessions touching such rates, shall be taken out or granted but upon a motion to be made some time in the first week of the next term after the time for appealing from such rates or orders is expired, and upon making it appear to the court by affidavit or otherwise that the merits of the question upon such appeal or orders will by such removal come properly in the judgment of the said court; and that no such writ of *certiorari* shall be allowed until sufficient security be given to the respective treasurer or treasurers appointed by virtue of this Act in the sum of one hundred pounds, to prosecute such writ of *certiorari* with effect and to pay the costs to be ascertained by the court to which such rates orders or proceedings shall be removed, in case such rates or orders shall be confirmed; nor shall any such rates orders or proceedings be quashed or vacated for want of form only; and all charges attending such removal shall be defrayed out of that or any subsequent rate.

No. I. 12 Geo. II. c. 29.

XXII. And be it further enacted by the authority aforesaid, That so much of the before-recited Act passed in the fourteenth year of the reign of Queen ELIZABETH as relates to the method of taxing parishes for the relief of prisoners, and so much of the said Act of the forty-third year of the same reign as relates to the method of raising money for the *King's Bench* and *Marshalsea* prisons hospital and alms-houses, and so much of the said Act of the nineteenth year of the reign of King CHARLES the Second as relates to the method of rating parishes for providing materials for the setting poor prisoners on work, shall be repealed and be absolutely null and void.

Part o 14 and 43 Eliz. and 19 Car. 2. repealed.

XXIII. Provided nevertheless, That such sums as have been annually paid to the *King's Bench* and *Marshalsea* prisons shall be paid out of the monies arising by virtue of this Act, at such times and in such manner as is prescribed in and by an Act passed in the eleventh year of the reign of his present Majesty, intituled *An Act for the more effectual securing the Payments of certain Sums of Money, directed by an Act made in the forty-third Year of the Reign of Queen* ELIZABETH, *intituled* An Act for the Relief of the Poor, to be paid by the respective treasurers of every county of *England* and *Wales* for the relief of the poor, to be paid by the respective treasurers of every county of *England* and *Wales* for the relief of the poor prisoners of the *King's Bench* and *Marshalsea* prisons; and such money as shall be judged necessary by the justices of the peace in sessions to be applied in pursuance of the said recited Act of the fourteenth year of the reign of Queen ELIZABETH, for the relief of prisoners, and of the said Act of the nineteenth year of the reign of King CHARLES the Second for providing materials for the setting poor prisoners on work, shall be paid out of the monies arising by this Act.

Manner of the Payment of the King's Bench and Marshalsea Money. 11 G. 2. c. 20.

XXIV. And be it further enacted by the authority aforesaid, That if any action or suit shall be commenced against any person or persons for any thing that shall be done in pursuance or by the authority of this present Act, in every such case the action or suit shall be commenced within three months next after the fact committed and not afterwards, and shall be laid and brought in the respective county in which the cause of action or suit shall arise and not elsewhere; and the defendant or defendants in such action or suit to be brought shall and may plead the general issue and give this Act and the special matter in evidence at any trial to be had thereupon, and that the same was done in pursuance and by the authority of this Act; and if it shall appear so to be done or that such action or actions shall be brought after the time before limited for bringing the same as aforesaid or shall be brought in any other county or place, that then the jury shall find for the defendant or defendants; and upon such verdict or if the plaintiff or plaintiffs shall be nonsuited or discontinue his her or their actions or suit after the defendant or defendants hath or have appeared, or if upon demurrer judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall and may recover treble costs and have the like remedy for the same as any defendant or defendants hath or have in other cases by law.

Limitation of Actions.

General Issue.

Treble Costs.

*** See as to Section III. Rex v. West Riding of York, 12 E. 117.

[No. II.] 13 George II. c. 18.—An Act to continue several Laws therein mentioned, * * * * * * and for extending the Powers and Authorities of Justices of the Peace of Counties touching County Rates, to the Justices of the Peace of such Liberties and Franchises as have Commissions of the Peace within themselves.*

VII. 'AND whereas by an Act passed in the twelfth year of his present Majesty's reign, intituled *An Act for the more easy assessing collecting and levying of County Rates*, several powers and authorities' are given to the justices of the peace in that part of *Great*

13 Geo. II. c. 18. 12 Geo. II. c. 29.

* See Part IV. Class III. No 27. and Part V. Class XXV. (E) 5. for other parts.

No. II.
13 Geo. II. c. 18.

'*Britain* called *England*, within the respective limits of their commissions at their general or quarter sessions from time to time to make one general rate or assessment for such sum or sums of money as they in their discretion shall think sufficient to answer all and every the ends and purposes of the several Acts therein recited; but there being a proviso in the said Act that the same or any thing therein contained should not extend or be construed to extend to make any persons liberties divisions or places liable to pay to any rate to be made in pursuance of the said Act to which such person liberty division or place did not or was not liable to contribute before the passing thereof; some doubts have arisen whether the said Act doth extend to liberties and franchises which are not within the jurisdiction of the commissions of the peace for the counties in which such liberties and franchises lie, and do never did nor were liable to contribute to the said county rates;' To the end therefore that such liberties and franchises may not be wholly deprived of the benefit of the said in part recited Act, it is hereby declared and enacted by the authority aforesaid, That where any liberties or franchises within that part of *Great Britain* called *England* have commissions of the peace within themselves and are not subject to the jurisdiction of the commissions of the peace for the counties in which such liberties or franchises lie, and do not nor did before the making the said in part recited Act contribute or pay to the several rates made for the said counties, it shall and may be lawful to and for the justices of the peace of such liberties and franchises within the respective limits of their commissions to have use and exercise all and singular the powers authorities and methods given or prescribed by the said in part recited Act, and all such liberties and franchises are hereby declared to be subject thereto in the same manner to all intents and purposes as counties at large are; any thing in the said in part recited Act contained, or any law usage or custom to the contrary thereof in any wise notwithstanding. (1.)

Justices of Peace for Liberties to act with the same Power as Justices for the County in collecting County Rates.

[No. III.] 55 George III. c. 51.—An Act to amend an Act of his late Majesty King *George* the Second, for the more easy assessing collecting and levying of County Rates.—[12*th May* 1815.]

55 George III. c. 51.

WHEREAS the laws now in force are found ineffectual for the correction of the disproportions which now exist, or which may from time to time take place in the assessments of county rates; Be it hereby enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act it shall be lawful for the justices of the peace of the several counties in that part of *Great Britain* called *England*, assembled at their general or quarter sessions or at any adjournment or adjournments thereof, and they are hereby authorised and empowered whenever circumstances shall appear to require it, to order and direct a fair and equal county rate to be made, for all the purposes to which the county stock or rate is now or shall hereafter be made liable by law according to the directions hereinafter mentioned; and for that purpose to assess and tax every parish township and other place whether parochial or extraparochial within the respective limits of their commissions rateably and equally according to a certain pound rate (to be from time to time fixed and publicly declared by such justices) of the full and fair annual value of the messuages lands tenements and hereditaments rateable to the relief of the poor therein, any law or statute to the contrary thereof notwithstanding: Provided also, that nothing in this

Justices in General or Quarter Sessions to make a fair and equal County Rate, whenever Circumstances appear to require it.

(1.) This Act extends to a Corporation, the Justices of which have, by Charter, exclusive jurisdiction: and the Session may appoint a High Constable and Treasurer, and impose a Rate, in the nature of a County Rate, although such Officers have never been before appointed, nor any such Rate levied there. Ruled with respect to Derby.—Weatherhead *v.* Drury, 11 E. 168.

Act contained shall extend or be construed to extend to give any jurisdiction to the justices of the peace of the said several counties over any places situate within the limits of any liberties or franchises having a separate jurisdiction, which before the passing of this Act were subject to rates in the nature of county rates imposed and assessed by the justices of the peace for such liberties or franchises, or which were exempt from the rates of the county in which they lie either in the whole or in part; nor to alter any proportion of county rate payable by any liberty or franchise having a separate jurisdiction as established between the county and the said liberty or franchise, provided such exemption or proportion shall have been created by or derived from grant charter or any special local Act of Parliament; nor to compel any such liberty or franchise, paying to some one or more of the rates specified in the preamble of an Act passed in the twelfth year of the reign of his late Majesty King *George* the Second, intituled, *An Act for the more easy assessing collecting and levying county rates*, to pay to any other rate therein mentioned to which such liberty or franchise was not liable to contribute before the passing of the said Act; nor to repeal or alter the provisions of any Acts now in force which shall have fixed the times and places of holding any general or annual general sessions or adjournment thereof, for the assessing the rates of any county, or for the raising levying or collecting the same, but that such provisions so fixing the time or place of holding such general or annual general sessions or adjournment thereof, and of then and there exclusively transacting the matters therein mentioned respecting the county rates, shall be and remain in full force; and that all the matters and things which in and by this Act are authorised to be done by the justices of the peace at their general or quarter sessions, or at any adjournment or adjournments thereof, shall be done and performed exclusively at such general or annual general sessions or at some adjournment thereof, and at no other time or place than such as shall have been fixed by any such Act.

Justices to require Churchwardens and Overseers to make Returns of Annual Value of Rateable Property.

II. And for the better enabling the said justices to make such fair and equal county rates be it hereby further enacted, That it shall be lawful for them at any general or general quarter sessions of the peace or at any adjournment or adjournments thereof (to be holden after the passing of this Act) and as often as they shall deem it expedient, and they are hereby authorised and empowered to issue precepts signed by their chairman, or by the clerk of the peace under the authority of the said court, to the high constables petty constables churchwardens overseers of the poor, assessors and collectors of public rates and taxes of or for the several and respective parishes townships and places whether parochial or otherwise within their jurisdiction, or to such and so many of them as to the said justices shall seem expedient, requiring the said constables churchwardens and overseers of the poor, assessors and collectors respectively, to make returns in writing to the justices of their respective divisions in petty sessions assembled (which returns shall be verified on oath at the time of delivery before any two or more such justices) of the total amount of the full and fair annual value of the several estates and rateable property within the parish township or place whether parochial or otherwise to which they respectively belong, charged or assessed to the poor's rate at the time of making such return or liable so to be, or charged or assessed on any other rate or assessment whether parochial or public, without regard nevertheless to the actual amounts or sums assessed on the property therein, save and except in such parishes townships or places only where such property is assessed to the full and fair estimated annual productive value.

Justices acting for Divisions empowered to receive Returns.

III. And be it further enacted, That it shall be lawful for the said justices so assembled at their general or quarter sessions as aforesaid, and they are hereby authorised and empowered from time to time whenever they shall deem it expedient for the purposes of this Act, also to make an order or orders for the justices of the peace within the limits of their commissions to meet from time to time within the several divisions in and for which they respectively act, and to fix therein the time of

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such first meeting; and the said justices in their respective divisions shall have power to adjourn from time to time until the purposes of this Act shall be completed; and any two or more such justices assembled at any such meeting shall receive the returns of the said constables churchwardens overseers assessors and collectors, causing the same to be verified as before directed, and them and every or any of them to examine on oath touching any matters and things contained in such returns as in the judgment of the said justices may appear necessary for the purposes of this Act, and to report their proceedings to the said justices assembled at the next or any subsequent general or quarter sessions as they shall have ordered and directed.

Penalty on Churchwardens and Overseers not making Returns.

IV. And be it further enacted, That in case any constable churchwarden overseer assessor or collector aforesaid shall neglect or make default in making any such return in manner aforesaid to the precepts which shall be issued by or under the authority of the said justices, then and in every such case each and every such constable churchwarden overseer assessor or collector so neglecting and making default (without sufficient excuse to be allowed by the said justices in their said general or quarter sessions) shall forfeit and pay such sum and sums of money, not exceeding twenty pounds, as shall or may be ordered or adjudged by such justices so assembled as aforesaid, to be levied on the goods and chattels of each and every churchwarden and overseer of the poor so neglecting or making default.

Justices in Petty Sessions assembled empowered to issue their Precepts to Officers, requiring them to make Returns in Writing.

V. And be it further enacted, That in case of default by not making due return of any matter or thing required by the precept of the justices in general or general quarter session assembled, as before directed, it shall be lawful for the justices in their respective divisions in petty sessions assembled or any two or more of them to issue their precepts to any officer or officers before described who shall have made such default, to make the returns in writing as before required to them on a day and at a place therein to be named, and so from time to time as often as shall be necessary; and in case any officer before described shall neglect or make default in making any such return to the precepts which shall be issued by any two or more justices acting for the division wherein such default shall be made, then and in every such case each and every such officer before described so neglecting and making default as aforesaid, without sufficient excuse to be allowed by the said justices acting for such division, shall forfeit and pay any sum, not exceeding twenty pounds, as shall or may be ordered and adjudged by such last-mentioned justices, to be levied on the goods and chattels of the officers so neglecting or making default.

Parishes may be assessed, although no Return made.

VI. And be it further enacted, That if any churchwarden or churchwardens overseer or overseers assessor or assessors or collector or collectors shall neglect or make default in making such return or returns as aforesaid, or if it shall happen that notwithstanding the incurring of any such penalty or penalties as aforesaid for or on account of such neglect or default, a return for any parish township or place, whether parochial or otherwise, shall not be made within the time limited for the making thereof, then and in every such case it shall be lawful for the said justices and they are hereby required either at the said general or quarter sessions or at any adjournment or adjournments thereof, or at some subsequent general or quarter sessions to be held for the same county or at some adjournment or adjournments thereof, or at some petty sessions or adjournment or adjournments thereof respectively as the case may be, to ascertain the annual value of the property chargeable to the county rate within or for each and every the parish township and place, whether parochial or otherwise, of which the constable or constables churchwarden or churchwardens overseer or overseers assessor or assessors collector or collectors shall have so neglected or made default in making such return as aforesaid, by issuing fresh precepts or by such other means as may appear to the said justices the most convenient and proper towards the obtaining a just and fair estimate of such annual value; and the said justices of the peace of the county in general or quarter

sessions or any adjournment or adjournments thereof assembled, acting on their own discretion or on the report of any two or more justices acting in and for any division of such county as the case may be, shall order such allowance or compensation to be made to the persons employed in ascertaining the said annual value and in making such returns as aforesaid, as to the said justices so assembled shall appear reasonable; and all such allowances and compensations and other expences as shall be thereby incurred shall be by the said justices so assembled charged upon the parish township or place, whether parochial or otherwise, of which the churchwarden or churchwardens overseer or overseers of the poor shall have so neglected or made default as aforesaid, in addition to the proportion of the said county rate to be paid by such parish township or place, whether parochial or otherwise; and such allowances compensations and expences shall and may be raised levied and collected by such and the like ways and means as the said county rate can or may be raised levied and collected, and shall be paid therewith, due distinction being made in the case of eevry such additional assessment between the sum or sums charged for and on account of any such expences and the sum or sums assessed as and for the county rate.

Parishes may be assessed where no Overseers or Churchwardens, or where no Poor's Rate, or where Returns insufficient.

VII. Provided always and it is hereby further enacted, That in all cases and places as aforesaid where there are no churchwardens or overseers of the poor, or where no rate is made and collected for the relief of the poor, or where the justices of the peace of any county or of any division thereof assembled as aforesaid, for the purpose of receiving such returns as aforesaid of the annual value of the property chargeable to the county rate, shall be of opinion that the returns made to them do not afford a full fair and just account of the annual value of the property rateable, it shall and may be lawful to and for the said justices of the peace so assembled to summon before them any one or more substantial inhabitant of such places respectively, or any other person or persons whom they the said justices may think proper to give evidence as to the fair annual value of such rateable property; and then and there to examine such inhabitant or inhabitants and other person or persons respectively on oath (which oath any one or more of the said justices is and are hereby authorised to administer) as to the annual value of such property.

Where no Poor's Rate or Overseer, Justices to appoint.

VIII. And be it further enacted, That in such place or places where there is no poor's rate or overseer of the poor or churchwarden or other officer necessary for the execution of the provisions of this Act, residing within the limits of the jurisdiction of the justices of the peace of the county requiring such returns, and in which there is any property liable to the poor's rate but not rated or assessed thereto, it shall and may be lawful for the said justices of the peace of the county assembled as aforesaid, or for the justices of the peace resident in and acting for any division of the county in which such place or places are situate, at any petty sessions or adjournment thereof to be holden by them within such division as aforesaid, and they are hereby authorised and required to appoint one or more proper person or persons to act as overseer or overseers or other such officer as aforesaid, who is and are hereby authorised empowered and required to act within such place or places respectively for effecting the purposes of this Act; and such person or persons respectively shall have the like powers vested in him or them, and shall be subject to the same regulations and penalties for effecting all such purposes, as fully and effectually to all intents and purposes as if he or they had been appointed overseer or overseers of the poor or churchwarden or churchwardens or other officer or officers under any law or laws now in force.

Justices empowered to call for all Parliamentary and Parochial Assessments, &c.

IX. And for the better enabling as well the said justices in general or quarter sessions assembled, as the justices of the several divisions acting under the order or orders of the justices assembled as aforesaid respectively, to ascertain the fair annual value of all property liable to be so rated; it is hereby further enacted, That it shall and may be lawful to and for such justices or any two or more of them from time to time, whenever the same may be in the judgment of such justices necessary

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for the more correct execution of this Act, to cause any of the books of assessment of any rates or taxes, parliamentary or parochial, which have lately been are now or shall hereafter be laid on any part of the property liable to be assessed towards the purposes for which a county rate is applicable, and the valuation by which such assessments are or were made mentioned and described within any parish or place within the limits of the jurisdiction of the said justices, in the hands of any constable churchwarden overseer assessor or collector, to be brought before them or him and to take copies or extracts of and from such books or any parts thereof, or to order and direct any person to take such copies or extracts from such books in the hands of them or any of them, without having the same brought before the said justices, or to call before them any such constable churchwarden overseer assessor or collector to give evidence respecting the same, as they or he or any of them shall think fit, such compensation being made to the person or persons employed for any of the purposes aforesaid as the said justices or any two or more of them shall think reasonable; and if any person or persons in whose custody or power any of the said books may be shall neglect or refuse to attend the said justices with such book or books, or to permit any such copies or extracts to be taken as aforesaid, or to give such information or evidence on oath as may be required by such justices (which oath such justices or any one or more of them are and is hereby authorised to administer) then and in every such case every person who shall so refuse or neglect shall for every such offence forfeit and pay any sum not exceeding ten pounds; and moreover it shall be lawful for such justices in the like cases from time to time to cause copies of the total amount assessed in each parish township or place, in respect of any aids or taxes payable to his Majesty his heirs or successors, and the total amount of the valuation of the property on which such assessments were made in any year then elapsed, to be made out by the clerk to the commissioners of each district within the limits of the jurisdiction of such justices, such compensation being made to the respective clerks as the said justices or any two of them shall think reasonable, and if any such clerk shall neglect or refuse to make out such copies within a reasonable time after his receipt of the order of such justices, every such clerk shall forfeit and pay the sum of twenty pounds.

Persons authorised to enter upon Lands, to ascertain Value.

X. And for the better enabling the churchwardens and overseers of the poor chief constables and other persons to make accurate returns as herein-before required in cases where doubts are entertained; be it further enacted, That it shall be lawful for them or any of them or for such other person or persons as they may select for that purpose, by warrant under the hands and seals of any two or more justices of the peace of the county in general or quarter sessions assembled, to enter upon view and examine all and any lands or other property chargeable to the county rate in order to ascertain the annual value at which the same ought to be charged: Provided always, that no such entry shall in any case be made unless fourteen days previous notice of the intention of making such entry shall have been given under the hands and seals of the justices authorising the same to the churchwardens or overseers, or to the person or persons appointed to act in default of such churchwardens or overseers of the parish township or place, whether parochial or otherwise, and to the person or persons whose lands are to be entered upon for the purpose of making such valuation.

Justices of Division to certify Value ascertained to Justices in Quarter Sessions.

XI. And be it further enacted, That whenever the justices in general or quarter sessions assembled shall have ordered any county rate to be made which they are hereby authorised to order from time to time whenever the same shall be necessary, and the justices in petty sessions shall by any of the aforesaid ways and means have ascertained to their own satisfaction the fair and just annual value of any or of all the rateable property within their respective divisions, and they are hereby required from time to time to certify under their hands the true amount thereof to the next general or quarter sessions of the peace for the same county, to the intent that at such general or quarter sessions or at some adjournment or adjournments thereof or at some subsequent general

or quarter sessions or adjournment or adjournments thereof the justices there assembled may from time to time and as often as they shall deem it necessary make a fair and equal rate on all such rateable property, or correct any inequalities which upon appeal shall be shown to their satisfaction to exist in any rate now existing or hereafter to be made.

Justices authorized to issue Warrants for levying new Rates according to usual Practice.

XII. And be it further enacted, That it shall be lawful to and for the justices of the peace of any county or the major part of them in general or quarter sessions or at any adjournment or adjournments thereof assembled, as often as they shall have deemed it necessary, to make a rate or rates assessment or assessments on all the rateable property within the limits of their jurisdiction according to the fair annual value of the same as derived from any or all of the several sources of information which are herein-before mentioned, and they are hereby authorised and empowered to order warrants to be from time to time issued in the same manner as now authorised and practised by law for collecting the county rates to the several high constables within their respective counties, ordering and requiring them to issue their warrants to the respective overseers of the poor within their respective divisions to levy collect and pay to the said high constables within a time to be named and limited in a warrant to be issued from the sessions as aforesaid all such rate or rates assessment or assessments, which each high constable shall and he is hereby directed and required to pay at such time as shall be specified in such warrant to the treasurer of the county for the time being, to be applied and disposed of in such manner and for such purposes as the county stock or rate is now applicable or may hereafter be made applicable by law; and in case any overseer or overseers of the poor or other person appointed to act as such under the provisions of this Act in any of the several parishes townships or places, whether parochial or otherwise, within any county liable to pay the same, shall neglect make default or refuse to pay the same within the time to be specified and limited for that purpose as aforesaid, to the high constable of the division within which such overseer or overseers or other person or persons so liable and neglecting to pay shall reside or be appointed to act, it shall and may be lawful for any justice of the peace of the said county, upon complaint thereof made by any such high constable, by warrant under the hand and seal of any such justice to levy the same by distress and sale of the offender's goods; and the overseer or overseers of the poor of any parish township or place, whether parochial or otherwise, or other person or persons appointed to act as such overseer or overseers, shall and may and is and are hereby empowered to levy and raise by an equal rate or assessment upon all and every the several estates and property rateable to the relief of the poor within their respective parishes townships or places, whether parochial or otherwise, such sum and sums of money as shall be required and necessary, in order to raise the several sums assessed upon such parishes townships or places respectively, or to reimburse such overseer or overseers or other person or persons as aforesaid such sum or sums of money as they shall respectively have paid on account of the same; such rate or assessment to be paid by the occupier or occupiers for the time being of such estates and rateable property as aforesaid

In Places where Poor Rate does not separately apply, Justices may order County Rate to be levied as where no Poor Rate.

XIII. And whereas it would be inconvenient and oppressive to many townships or places that the sum of money which may be assessed on them as or for a county rate under this Act should be paid out of any rate made for the relief of the poor where such poor rate doth not apply separately and distinctly to the parish township or place; Be it further enacted, That it shall be lawful for the justices of the peace at their general or quarter sessions or at any adjournment thereof, if they shall think convenient, to order the sum of money directed to be assessed as or for the county rate on any such parish township or place, whether parochial or otherwise, to be paid and levied on the churchwardens overseers or petty constables of or for any such parish township or place, in such manner as the same is herein directed to be paid and levied in cases where no rate is made for the relief of the poor; any thing herein contained or any law usage or custom to the contrary notwithstanding.

No III
55 Geo III.
c. 51.

Parishes aggrieved may appeal.

XIV Provided always and be it enacted, That if the churchwarden or churchwardens overseer or overseers of the poor or other inhabitant or inhabitants of any parish township or place, whether parochial or otherwise, where there is no churchwarden or overseer or person appointed to act as such, shall at any time have reason to think that such parish township or place is aggrieved by any rate now existing or hereafter to be made either in pursuance of this Act or of any Act or Acts now in force, whether it be on account of the proportions assessed upon the respective parishes townships or places being unequal, or on account of some one or more of them being without sufficient cause omitted altogether from the rate, or on account of such parish township or place being rated at a higher proportion of the pound sterling according to the fair annual value of the rateable property therein, or on account of some other parish or parishes township or townships place or places being rated at a lower proportion of the pound sterling according to the fair annual value of the rateable property therein than has been fixed and declared by the justices of the peace of the said county in sessions assembled as the basis of the rate of the said county, or on account of any other just cause of complaint whatsoever; it shall be lawful for such churchwarden or churchwardens overseer or overseers of the poor or other inhabitant or inhabitants, where there is no churchwarden or overseer or person appointed to act as such, to appeal to the justices of the peace for the county at any general or quarter sessions against such part of the rate only as may affect the parish or parishes township or townships place or places which are unequally rated or which shall appear to be over-rated or under-rated or omitted altogether from the rate; and the said justices are hereby empowered to hear and finally determine the same, and either to confirm such parts of the rate as have been appealed against or to correct such inequalities disproportions or omissions as shall be proved to exist therein in such manner as to them the said justices shall appear fair just and equitable; any thing in this Act or any former Act or Acts or any law usage or custom to the contrary thereof notwithstanding: Provided nevertheless, that upon such appeal no such rate shall be quashed or destroyed in regard to any other parish township or place unless in cases where the justices of the peace of any county in general or quarter sessions assembled or the major part of them shall deem it necessary to proceed to the making of an entire new rate and shall proceed therein according to the provisions of this Act

Expence of Appeals to be paid by Parishes or Persons appealing.

XV. And be it further enacted, That in case of any appeals actions suits or proceedings at law respecting any thing done in pursuance of this Act or any other Act or Acts relating to the county rate, the expences of all such appeals actions suits or proceedings at law shall be borne and paid by such respective parishes townships places and persons or such of them and in such proportions as the said justices shall upon any appeal in their general or quarter sessions award; or as such courts wherein such actions suits or proceedings shall be instituted shall adjudge and order; and shall not be charged to or be paid out of the county rate.

Power to Justices to compensate Persons employed out of County Rate.

XVI. And be it further enacted, That it shall and may be lawful for the justices of the peace of any county in general or quarter sessions or any adjournment thereof from time to time assembled to order such allowances and compensations to be made to the overseers churchwardens constables assessors collectors clerks or other persons employed in the execution of this Act which have not herein-before been provided for, from by and out of the monies assessed levied and collected by any county rate made under this or any former Act or Acts, as to the said justices shall appear reasonable and proper

Further Allowance to the Treasurer.

XVII And whereas the allowance which the justices of the peace are authorised to make to the treasurer or treasurers for his or their care and pains in the execution of his or their office stands limited by the before-recited Act made in the twelfth year of the reign of his Majesty King *George* the Second to a sum not exceeding twenty pounds a year: And whereas such sum has been in some and may be found in many cases inadequate to remunerate him or them for such care and pains; Be it

12 Geo. 2. c. 29.

hereby further enacted, That so much of the said Act as limits the said allowance to twenty pounds a year is hereby repealed; and that it shall and may be lawful for the said justices of the peace, at their respective general or quarter sessions, or the greater part of them then and there assembled, to allow to the treasurer or treasurers of their counties and to every of them insisting on the same such reasonable sum or sums of money for such purpose as aforesaid as they in their discretion shall think fit, of which they are hereby empowered to direct the payment out of the monies arising by the rates of their respective counties: Provided always, That no such augmentation of allowance shall be made at any such general or quarter sessions, unless application for such augmentation shall have been made by the said treasurer or treasurers or the justices of the peace at some general or quarter sessions assembled, and unless notice of the intention of taking the said augmentation into consideration shall have been advertised for three successive weeks in some newspaper usually circulating in such county in the month immediately preceding the time fixed for considering the same.

Treasurers of Counties or of Divisions of Counties to publish once in every Year an Abstract Account of their Receipts and Expenditures.

XVIII. And be it further enacted, That the said several treasurers of counties or of divisions of counties shall and they are hereby required once in every year to publish in some one of the newspapers usually circulating in the county or division of the county in which they respectively act a true and accurate abstract of the account of their receipts and expenditures, under their several heads, for the year immediately preceding the publication of such abstract, signed by the justices of the peace who shall have audited the same, under a penalty of fifty pounds for every omission of such publication.

High Constables to give Security.

XIX. And be it further enacted, That the justices of the peace of the said several counties are hereby authorised and empowered to demand and take, whenever they shall think fit, good and sufficient security, to be approved of by the said justices in general or quarter sessions assembled, from the high constables employed in the collecting and levying the rates; and that if any such high constable, upon being so called upon by the said justices, shall neglect or refuse to give such security as shall be approved by them, it shall then be lawful for the said justices of the peace in quarter sessions assembled to order and direct the churchwardens and overseers of the poor or other persons appointed to assess collect and levy the rates of any parish township or place to pay the quota which shall be assessed thereupon towards the county rate to the treasurer of the county division or place in which such parish township or place shall be situate; and the receipt of such treasurer shall be a sufficient discharge for the same.

Extending former Acts to this Act.
12 Geo. 2. c. 29.
13 Geo. 2. c. 18.

XX. And be it further enacted and declared, That all and every the clauses powers directions provisions and authorities contained in the said Act made in the twelfth year of his late Majesty King *George* the Second, intituled, *An Act for the more easy assessing collecting and levying County Rates*; and also so much of another Act made in the thirteenth year of the reign of his said late Majesty King *George* the Second, intituled, *An Act to continue several Acts therein mentioned for punishing such Persons as shall wilfully and maliciously pull down or destroy Turnpikes; for repairing Highways or Locks or other Works erected by Authority of Parliament for making Rivers navigable; for preventing Exactions of the Occupiers of Locks and Weirs upon the River of* Thames *Westward, and for ascertaining the Rates of Water Carriage upon the said River; for preventing frivolous and vexatious Arrests; and for better securing the lawful Trade of his Majesty's Subjects to and from the* East Indies, *and for the more effectual preventing all his Majesty's Subjects trading thither under Foreign Commissions; and for limiting the Time for suing forth Writs of* Certiorari *upon Proceedings before Justices of the Peace and for regulating the Time and Manner of applying for the same; for the better and more speedy Execution of Process within particular Franchises and Liberties; and for extending the Powers and Authorities of Justices of the Peace of Counties touching County Rates to the Justices of the Peace of such Liberties and Franchises as have Commissions of the Peace within themselves,* as relates to county rates (save and except such parts thereof re-

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spectively as are hereby varied altered or repealed) shall be good valid and effectual, for the purposes of assessing levying collecting and enforcing the payment of the rate or rates hereafter to be made in pursuance of this Act and for carrying this Act into execution.

Counties where Rates have been regulated by particular Acts, authorized to make use of the Provisions of this Act.

XXI. And whereas several Acts have passed in the reign of his present Majesty and are now in force, empowering the justices of the peace of certain counties to make fair and equal county rates within their respective counties; Be it hereby enacted, That it shall and may be lawful to and for the said justices respectively, and they are hereby empowered at any time and at all times after the passing of this Act, to proceed in the assessing levying and collecting and enforcing the payment of the county rate, and in all matters relating to the equalizing the same, either under the authority and according to the provisions and enactments of this Act, or under the authority and according to the provisions and enactments of the particular Acts affecting their respective counties as to them shall seem fit and proper in all cases in which the provisions and enactments of this Act are not inconsistent with the provisions and enactments of such particular Acts.

Forfeitures, &c. how to be levied and applied.

XXII. And be it further enacted, That the several forfeitures and penalties inflicted by this Act shall if not immediately paid be levied by distress and sale of the offender's goods and chattels by virtue of any warrant under the hand and seal of any one justice of the peace for the county, not only in the county in which the offence shall have been committed but in any other county city town borough franchise or place (the warrant or warrants for levying the same being in such last-mentioned case first indorsed by some justice of the peace for the county or mayor or other head officer of the city town borough or franchise where any goods of the respective defaulters shall be found) returning the overplus (if any) after the charges of such distress and sale shall be deducted; and in case sufficient distress shall not be found, then it shall be lawful for such justices to commit the offender to the common gaol of the said county, there to remain without bail or mainprize for any time not exceeding three calendar months, unless the forfeitures and charges be sooner paid; and the said forfeitures when recovered shall be paid to the treasurer of the county or of any division thereof in which they shall have been incurred, to be applied in aid of the rates of the said county or division thereof; and no person shall be deemed incompetent to be a witness for the execution of the purposes of this Act, or in any appeal or other proceeding instituted by virtue thereof, by reason of his paying or being liable to pay towards the poor rates or county rates within the said county.

Limitation of Actions.

XXIII. Provided also and be it further enacted, That no action or suit shall be brought commenced or prosecuted against any person or persons for any thing done or to be done by virtue of or in pursuance of this Act after three calendar months next after the fact committed; and every such action shall be brought and laid in the county where the cause of action shall have arisen and not elsewhere; and the defendant or defendants in every such action or suit shall and may plead at his her or their election this Act specially or the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon, and that the same was done in pursuance or by the authority of this Act; and if upon trial of such action or suit it shall appear to have been so done, or that such action or suit shall have been brought after the time limited for bringing the same as aforesaid, or be brought or laid in any other county than as aforesaid, then and in every the said cases the jury shall find a verdict for the defendant or defendants; and in all cases where a verdict shall be found for any defendant or defendants in such action or suit, or the plaintiff or plaintiffs therein shall discontinue the same after the defendant or defendants shall have appeared thereto or shall be nonsuited, or if upon demurrer judgment shall be given against such plaintiff or plaintiffs, then and in every such case the defendant or defendants shall recover treble costs, and have the like remedy for recovering the same as any defendant or defendants hath or have for recovering costs of suit in any other cases by law.

XXIV. And be it further enacted, That where any ridings or divisions have separate commissions of the peace, or where any cities towns or other places within that part of *Great Britain* called *England* have commissions of the peace within themselves, and are not subject to the jurisdiction of the commissions of the peace for the counties at large in which such liberties or franchises lie, and do not nor did not before the passing of this Act contribute or pay to the several rates made for the said counties at large, it shall and may be lawful to and for the justices of the peace of such separate jurisdictions within the respective limits of their commissions, to have use and exercise all and singular the powers authorities and methods given or prescribed by this Act; and all such separate jurisdictions are hereby declared to be subject thereto, in the same manner to all intents and purposes as counties at large; any law usage or custom to the contrary notwithstanding.

Extending the Provisions of this Act to Places that have Commissions of the Peace within themselves.

[No. IV.] 56 Geo. III. c. 49.—An Act to explain and amend an Act, passed in the last Session of Parliament, for the more easy assessing collecting and levying of County Rates.—[20*th June* 1816.]

WHEREAS an Act was passed in the fifty-fifty year of the reign of his present Majesty, intituled *An Act to amend an Act of his late Majesty King George the Second, for the more easy assessing collecting and levying of County Rates:* And whereas by the said recited Act the justices of the peace of the several counties ridings or divisions of counties cities towns or other places having commissions of the peace within themselves, in that part of *Great Britain* called *England*, are authorised and empowered to assess and tax for the purposes of the said Act every parish township and other place, whether parochial or extraparochial, within the respective limits of their commissions, according to a certain pound rate of the full and fair annual value of the messuages lands tenements and hereditaments rateable to the relief of the poor therein; and doubts having arisen under the said Act whether any messuages lands tenements or hereditaments situate within any extraparochial or other place where no rate for relief of the poor is made and collected could be made subject to the county rate to be raised under the said Act, and it is expedient that such doubts should be removed; be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That all messuages lands tenements and hereditaments situate lying or being in any extraparochial place or other places, whether rated to the relief of the poor or not so rated, although the same may not be deemed rateable to the relief of the poor within such extraparochial places or other places where no rate is made for the relief of the poor, shall be and the same are hereby declared to be subject to be assessed taxed and rated by and under the order direction and authority of justices of the peace, in such and the same manner as the messuages lands tenements and hereditaments within any parishes or places where a rate is made for the relief of the poor; and the justices of the peace shall in all cases where the same may be necessary, appoint proper persons within such extraparochial or other places as directed in and by the said recited Act, for the assessing taxing and rating such extraparochial messuages lands tenements and hereditaments, and levying collecting and paying over such assessments taxes or rates under the provisions of the said recited Act.

56 Geo. 3. c. 49.
55 Geo. 3. c. 51.

Extraparochial and other Places, though not deemed rateable to the Relief of the Poor, subject to be rated to the County Rate.

II. And whereas doubts have arisen and may arise touching the boundaries of counties ridings and divisions and parts of counties and other places of distinct and separate jurisdiction, and touching the jurisdictions of justices of the peace in relation thereto under the provisions of the said

Justices in General or Quarter Sessions to appoint Justices to fix and determine Boundaries between Counties, Ridings, Divisions, or Parts of Counties, and other Places of distinct and separate Jurisdiction.

No. IV.
56 Geo. III. c. 49.

recited Act; and it is expedient that such doubts should be removed, and that boundaries should be ascertained in all such cases for the purposes of carrying the said recited Act into execution; Be it therefore enacted, That the justices of the peace of counties and ridings and divisions and parts of counties and other places of distinct and separate jurisdiction in that part of *Great Britain* called *England*, assembled at their several and respective general or quarter sessions of the peace or at any adjournment thereof, shall be and they are hereby authorised and required in any case in which any question or doubt does or shall exist or shall have arisen or may in the judgment of the said justices be likely to arise, as concerning any boundary between any counties ridings divisions or parts of any county or other places of distinct and separate jurisdiction, for which they respectively act as such justices, to nominate and appoint two justices of the peace of each such county riding division or parts of any county or other places of distinct and separate jurisdiction between which the boundary is required to be ascertained for the purpose of fixing and determining such boundary, and the clerks of the peace town clerks and other proper officer of the several and respective general or quarter sessions of the peace at which such justices shall be appointed shall forthwith give notice to each other and to such justices of such appointment; and the justices so appointed shall in every such case, as soon as may be after their appointment, meet and proceed to ascertain the boundary upon such evidence as can be obtained by them or as they shall deem necessary for that purpose, either by examination of witnesses upon oath (which oath any one of the said justices is hereby empowered to administer) or of any maps plans surveys or any other records or documents or in such other manner as they the said justices so appointed shall think requisite; and it shall be lawful for such justices, or for any persons authorised under the hand of any three or more of such justices, to enter upon any lands grounds or premises for the purpose of examining the same, or making any measurement maps or plans thereof for the purposes aforesaid; and it shall be lawful for the said justices to summon any witnesses to be examined in that behalf, and to impose any penalty or forfeiture not exceeding ten pounds upon any witness who shall without reasonable excuse refuse or neglect to attend to be examined upon any such summons, which penalty or forfeiture may be recovered as any penalty or forfeiture may be recovered under any of the provisions of the said recited Act; and such justices shall thereupon fix ascertain and determine the boundary so referred to them to be ascertained, and shall cause the boundary so fixed and determined to be laid down on two maps or plans to be signed by the said justices so appointed as aforesaid, which shall be deposited with the clerks of the peace town clerks or other proper officer for the counties ridings divisions or parts of counties or other places of distinct and separate jurisdiction between which such boundary shall be so fixed and determined, and which maps and plans shall be kept amongst the records of their respective sessions and shall be received as evidence of such boundaries; and such boundaries so fixed and determined shall be and be deemed the boundaries between the respective counties ridings divisions or parts of counties or other places of distinct and separate jurisdiction for which the same shall have been so ascertained for all the purposes of this and of the said recited Act and the carrying the provisions thereof respectively into execution; any thing contained in any other Act or Acts of Parliament relating to such counties ridings divisions or parts of such counties or other places of distinct and separate jurisdiction, or any law usage or custom to the contrary notwithstanding.

Appointment of new Justices.

III. And be it further enacted, That if any of the four justices so appointed as aforesaid or who shall be appointed in manner herein-after mentioned shall, before the execution of all the powers and authorities hereby in them respectively vested, die decline or refuse to act or become incapable of acting, the justices of the peace of counties ridings divisions and parts of counties and other places of distinct and separate jurisdiction assembled at their several and respective general or quarter sessions of the peace or at any adjournment thereof, from which such justice so ap-

pointed or to be appointed shall die decline refuse to act or become incapable of acting, shall and they are hereby authorised and required to appoint another justice in the room of him so dying declining refusing to act or becoming incapable of acting as aforesaid, and so from time to time as often as any justice so to be appointed as last aforesaid shall die decline or refuse to act or become incapable of acting; and every justice to be appointed as aforesaid shall have the like power and authority as the justice in whose place he shall be appointed was invested with by virtue of this Act; and that notice shall be given by the clerks of the peace town clerks or other proper officer to such justice of his appointment in manner herein-before directed.

In case of Difference between Justices, a Referee to be appointed to meet them and determine Boundary.

IV. Provided always and be it further enacted, That if it shall happen that the justices so appointed to fix ascertain and determine the boundaries as aforesaid shall disagree in opinion touching the boundary between any county riding division or parts of any county or other place of distinct and separate jurisdiction so referred to them under and by virtue of this or the said recited Act, and there shall be an equality of votes so that the said justices cannot make any determination thereon, then and in such case the said justices or the major part of them shall forthwith appoint under their hands such persons as they may think proper to act as referee, which person so appointed as referee shall within twenty-one days from the receipt of such appointment fix a time and place to meet such justices; and at such meeting the said person so to be appointed as referee as aforesaid shall, together with the said justices to whom any boundary shall be referred to be ascertained as aforesaid, proceed to fix ascertain and determine the boundary about which such disagreement shall take place amongst them the said justices in such and the same manner and with such and the like powers in all respects as herein-before expressed, and that the determination and decision of the said justices and of the person whom they shall appoint as referee as aforesaid or of the major part of them shall be for ever binding and conclusive; and that the said justices and the person whom they shall appoint as referee as aforesaid or the major part of them shall cause the boundary so fixed and determined to be laid down on two maps or plans to be signed by the said justices and the person so appointed as referee as aforesaid or by the major part of them, which shall be deposited with the clerks of the peace town clerks or other proper officer as herein-before directed, and kept amongst the records of their respective sessions and shall be received as evidence of such boundaries; and such boundaries so fixed and determined shall be and be deemed the boundaries between the respective counties ridings divisions or parts of counties or other places of distinct and separate jurisdiction, for which the same shall have been so ascertained for all the purposes of this and of the said recited Act, and the carrying the provisions thereof respectively into execution, any thing contained in any other Act or Acts of Parliament relating to such counties ridings divisions or parts of such counties or other places of distinct and separate jurisdiction, or any law usage or custom to the contrary notwithstanding.

Appeals how to be proceeded in.

V. Provided always and be it further enacted, That in all cases in which any appeal or appeals shall be made under the said recited Act to any rate or assessment made in pursuance thereof or of this Act, the same shall be made to the next general or quarter sessions of the peace after the cause of appeal shall have arisen, and that fourteen clear days notice in writing shall be given of the intention to try such appeal previous to such general or quarter sessions, and that notwithstanding such appeal or notice thereof the rate or rates made upon any parish township or place (whether extraparochial or otherwise) under the said recited Act and this Act shall be paid and shall and may be levied recovered and received in the same manner as if no appeal had been made or notice given thereof; and that if upon the hearing of any such appeal or appeals the court of general or quarter sessions of the peace shall order any rate or assessment to be decreased or lowered, and it shall appear to the said court that any parish township or place have or hath previously to the

No. IV.
56 Geo. III. c. 49.

hearing such appeal or appeals paid any sum or sums of money in consequence of such rates or assessments which ought not to have been paid or charged therein, then and in every such case the said court shall order all and every such sum and sums of money to be repaid and returned to the person or persons parish township or place having paid the same respectively.

Act not to determine any Question of Boundary.

VI. Provided always, That nothing in this Act contained nor any proceedings under the same shall extend or be construed to extend to determine any question of boundary for any purpose except for the purpose of assessing collecting and levying rates according to the provisions of this Act and of the said recited Act.

Extending former Act to this Act.

VII. And be it further enacted, That all the powers authorities provisions clauses and regulations contained in the said recited Act shall be deemed and taken to apply to this Act as if the same were severally and respectively repeated and re-enacted in this Act; and this Act and the said recited Act shall be construed as one Act.

[No. V.] 57 Geo. III. c. 94.—An Act to amend an Act of the last Session of Parliament, for the more easy assessing of County Rates.—[10*th July* 1817.]

57 Geo. III. c. 94.
56 Geo. 3. c. 49.

WHEREAS an Act was passed in the last session of Parliament to explain and amend an Act passed in the last session of Parliament for the more easy assessing collecting and levying of county rates: And whereas it is expedient to repeal so much of the said Act as directs that in all cases in which any appeal or appeals shall be made under the said recited Act to any rate or assessment made in pursuance thereof or of this Act the same should be made to the next general or quarter sessions of the peace after the cause of appeal shall have arisen, and that fourteen clear days notice in writing should be given of the intention to try such appeal previous to such general or quarter sessions; and that notwithstanding such appeal or notice thereof, the rate or rates made upon any parish township or place (whether parochial or otherwise) under the said recited Act and this Act should be paid, and should and might be levied recovered and received in the same manner as if no appeal had been made or notice given thereof; and that if upon the hearing of any such appeal or appeals the court of general or quarter sessions of the peace should order any rate or assessment to be decreased or lowered, and it should appear to the said court that any parish township or place have or hath previously to the hearing such appeal or appeals paid any sum or sums of money in consequence of such rates or assessments which ought not to have been paid or charged therein, then and in every such case the said court should order all and every such sum and sums of money to be repaid and returned to the person or persons parish township or place having paid the same respectively; Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That the herein-before recited provision shall be and the same is hereby repealed.

So much of recited Act as respects Appeals, &c. repealed.

Rate to be raised notwithstanding Appeals, until Determination of Justices.

II. And be it further enacted, That from and after the passing of this Act the rate or rates made upon any parish township or place (whether extraparochial or otherwise) under any Act or Acts passed for the assessing collecting and levying of county rates shall be paid and shall and may be levied recovered and received, notwithstanding any appeal or appeals may have been made to the general or quarter sessions of the peace against any such rate or rates; and such rate or rates shall continue to be raised levied and received until the decision of the justices shall be made upon such appeal or appeals: Provided always, that if upon the hearing of any such appeal or appeals the court of general or quarter sessions of the peace shall order any rate or assessment to be set aside decreased or lowered, and it shall appear to the said court that any parish township or place have or hath previously to the determination of such

In case Justices order Rate to be set aside, decreased, or lowered;

No. V.
57 Geo. III. c. 94.

appeal or appeals paid any sum or sums of money in consequence of such rates or assessments which ought not to have been paid or charged therein, then and in every such case the said court shall order such proportion of such sum or sums of money as shall have been so paid by any person or persons parish township or place, subsequently to the notice which shall have been given of such appeal or appeals, to be repaid and returned to the person or persons parish township or place which have or hath paid the same respectively out of the general rate of the county in which the cause of appeal shall have arisen: Provided always, that fourteen clear days notice in writing shall be given by the parties intending to appeal against any rate or assessment to the parties against whose rate the appeal is to be made, the clerk of the peace of the county and the hundred constable, of the intention to try such appeal at the next general quarter sessions of the peace; any thing in any Act or Acts to the contrary notwithstanding.

Money paid subsequent to the Time of Appeal to be returned out of the General County Rate.

Notice of Appeal.

III. And be it further enacted, That so much of the said recited Act as directs that the expences of all appeals actions suits or proceedings at law in respect of any thing done in pursuance of the said recited Act shall be paid by such respective parishes townships places and persons as the said justices in general or quarter sessions shall direct, or such court wherein such proceeding shall be instituted shall order, and shall not be charged to or be paid out of the county rate, shall be and the same is hereby repealed.

So much of recited Act, as directs that the Expences of Appeal shall be paid by such Parishes as the Justices shall appoint, repealed.

IV. And be it further enacted, That in case of any appeals actions suits or proceedings at law respecting any thing done in pursuance of this Act or any other Act or Acts relating to the county rate, the expences of all such appeals actions suits or proceedings at law shall be borne and paid by such respective parishes townships places and persons or such of them and in such proportions as the said justices shall upon any appeal in their general or quarter sessions award and order, or as such courts wherein such actions suits or proceedings shall be instituted shall adjudge and order.

Expences of Appeals shall be paid in such Proportions as the Justices shall award.

V. And whereas there are several parishes townships and places in and over which the high constables have no jurisdiction; Be it therefore further enacted, That in all such cases it shall be lawful for the justices of the peace of any county in which such parishes townships or places shall be situate to issue their warrants for collecting the county rate to one or more of the constables of such parishes townships or places, and such constable or constables shall collect levy and pay such county rate in such and the like manner as the high constables are by the said Act empowered and required to do, and shall be subject to the like penalties in case he or they shall neglect to demand levy or account for such county rates as the said high constables are subject or liable to by any law or statute now in force.

Where there are no High Constables, other Constables may levy the Rates.

[No. VI.] 1 & 2 Geo. IV. c. 85.—An Act to explain and amend several Acts relating to the assessing, levying and collecting the County Rates.—[2d *July* 1821.]

WHEREAS an Act was passed in the twelfth year of the reign of his Majesty King *George* the Second for the more easy assessing levying and collecting of county rates: And whereas an Act was passed in the thirteenth year of the reign of his said Majesty King *George* the Second (amongst other purposes) for extending the powers and authorities of justices of the peace of counties, touching county rates, to the justices of the peace of such liberties and franchises as have commissions of the peace within themselves: And whereas an Act was passed in the fifty-fifth year of the reign of his late Majesty King *George* the Third, intituled *An Act to amend an Act of his late Majesty King George the Second, for the more easy assessing collecting and levying of County Rates*: And whereas an Act was passed in the fifty-sixth year of the reign of his said late Majesty, to explain and amend the said last-mentioned Act;

1 & 2 Geo. IV. c. 85.
12 Geo. 2. c. 29.
13 Geo. 2. c. 18.
55 Geo. 3. c. 51.
56 Geo. 3. c. 49.

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1 & 2 Geo. IV. c. 85.

57 Geo. 3. c. 94.

And whereas an Act was passed in the fifty-seventh year of the reign of his said late Majesty to amend the said last-mentioned Act: And whereas there are several parishes townships hamlets and places situated in and extending into two or more counties ridings or divisions having separate and distinct commissions of the peace, part of such parishes townships hamlets and other places being situated in one county riding or division and other part or parts thereof in another county or other counties riding or ridings division or divisions, and the messuages lands tenements and hereditaments situated in such parishes townships hamlets or other places are rateable to the relief of the poor therein and to the county rates of the respective counties ridings or divisions in which such messuages lands tenements and hereditaments are respectively situated; but the constables churchwardens and overseers are appointed for the whole of such parishes townships hamlets or places, and it frequently happens that such constables churchwardens and overseers are resident in one division of such parishes townships hamlets or other places, and that there are no constables churchwardens or overseers residing in the other division thereof or within the limits of the jurisdiction of the justices making such county rate or rates, whereby considerable difficulties have in such cases arisen in raising the county rates in such divisions: For remedy whereof, be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act all and every the powers and provisions clauses pains penalties and forfeitures given granted provided made or imposed by the said recited Acts or any of them shall extend and be deemed construed and taken to extend to all cases and places as aforesaid where there are no separate churchwardens or overseers of the poor, or where no separate or distinct rate is made and collected for the relief of the poor of any such division or part of any parish township or place situated in and extending into two or more counties ridings or divisions as aforesaid, as fully and effectually to all intents and purposes as if the said several powers provisions clauses pains penalties and forfeitures were herein and hereby repeated and re-enacted as to all such cases and places as aforesaid; and that from and after the passing of this Act all and every the constables churchwardens and overseers of any such parishes townships hamlets or other places as are situated in and extend into two or more counties ridings or divisions having separate and distinct commissions of the peace as aforesaid, shall be subject to the precepts warrants orders and directions of the several justices of the peace for the respective divisions or parts of such parishes townships hamlets or other places, so far as the same may relate to the making of the returns required by the said recited Acts or any of them, and the assessing levying and collecting of the proportion of the county rate for such respective divisions or parts of such parishes townships hamlets or other places or otherwise to the execution of the said recited Acts and of any other Acts relating thereto, within the parts of such parishes townships hamlets or other places as shall be situated within the limits of the jurisdiction of the justices making and issuing such precepts orders warrants and directions, and shall be subject to the same fines penalties and forfeitures for neglect and disobedience of the precepts warrants orders and directions of such justices so far as the same shall relate to the matters aforesaid or any of them, or otherwise to the execution of the said recited Acts or any other Acts relating to the assessing levying and collecting of the county rate within the limits of the jurisdiction of the justices making and issuing such precepts warrants orders and directions as such constables churchwardens and overseers or other officers would by the laws now in force be subject and liable to, if such constables churchwardens overseers or other officers had resided within the limits of the jurisdiction of the justices making and issuing such precepts warrants orders and directions: Provided always, that nothing herein contained shall extend or be construed deemed or taken to extend to authorise any justice or justices of the peace to act in the cases aforesaid, or any of them beyond

Powers of recited Acts to extend to Places where there are no separate Churchwardens, &c. or where no separate or distinct Poor Rate is made for any Place extending into Two or more Counties, &c.

Justices not to act beyond their Jurisdiction.

No. VI.
1 & 2 Geo. IV. c. 85.

the limits of the jurisdiction within which he or they shall be generally appointed and authorised to act as such justices.

II. And whereas by the said recited Act of the Fifty-sixth year of the reign of his late Majesty it was enacted, that all messuages lands tenements and hereditaments situate lying or being in any extraparochial place or other places, whether rated to the relief of the poor or not so rated, although the same might not be deemed rateable to the relief of the poor within such extraparochial places, or other places where no rate is made for the relief of the poor, should be and the same were thereby declared to be subject to be assessed taxed and rated by and under the order direction and authority of justices of the peace in such and the same manner as the messuages lands tenements and hereditaments within any parishes or places where a rate is made for the relief of the poor; and that the justices of the peace should in all cases where the same might be necessary, appoint proper persons within such extraparochial or other places as directed in and by the said therein recited Act of the fifty-fifth year of the reign of his late Majesty for the assessing taxing and rating such extraparochial messuages lands tenements and hereditaments and levying collecting and paying over such assessments taxes or rates under the provisions of the said recited Act: And whereas there are extraparochial and other places where no rate is made for the relief of the poor in which there are no messuages or no person or persons resident proper to be appointed for the assessing taxing and rating such extraparochial or other places, and levying collecting and paying over such assessments taxes or rates under the provisions of the said last-recited Act; and it is expedient that in those cases the justices of the peace should be authorised and empowered in their discretion to appoint proper persons, who do not reside within such extraparochial or other places, to assess tax and rate all messuages lands tenements and hereditaments situated in such extraparochial or other places: Be it therefore further enacted, That the justices of the peace in and for any county riding or division shall in all such cases where they shall deem it necessary appoint proper persons within such county riding or division as directed in and by the said recited Act of the fifty-fifth year aforesaid, whether such persons do or do not reside within such extraparochial or other place as aforesaid, to assess tax and rate all such messuages lands tenements and hereditaments as are situated in such extraparochial or other places as aforesaid; any thing in the said last-recited Act to the contrary in anywise notwithstanding.

In extraparochial Places, where no Poor Rate is made, Justices may appoint Persons to tax and assess County Rate.

III. And for the more effectually levying money assessed for the purposes aforesaid, be it enacted, That the goods of any person assessed, or by the said recited Acts or this or any of them made liable to pay the rates thereby authorised to be raised and levied or any proportion thereof for any county riding division city borough town corporate or place, and refusing to pay may be levied by warrant of distress, not only in the place for which such assessment was made but in any other place within the same county or precinct; and if sufficient distress cannot be found within the said county riding division city borough town corporate or place, on oath made thereof before some justice of any other county or precinct (which oath shall be certified under the hand of such justice on the said warrant) such goods may be levied in such other county riding division city borough town corporate or place by virtue of such warrant and certificate; and if any person shall find him or herself aggrieved by such distress as aforesaid, it shall and may be lawful for such person to appeal to the next general or quarter sessions of the peace for the county or precinct where such assessment was made, and the justices there are hereby required to hear and finally determine the same.

The Goods of Persons liable to pay Rates may be seized by Warrant of Distress in any other Place than the Place of Assessment, &c.

Appeal to Quarter Sessions.

IV. And be it further enacted, That in all cases where any penalty forfeiture fine or other money may under or by virtue of the said recited Acts or this Act or any of them, by the warrant of any justice or justices of the peace be directed to be levied by distress and sale of the goods and chattels of any person or persons, if sufficient distress cannot be found

Where sufficient Distress cannot be found in one County, &c.

Justices of other Counties may indorse the Warrant, and direct Distress to be levied.

No. VI.
1 & 2 Geo. IV. c. 85.

within the limits of the jurisdiction of the justice granting such warrant of distress on oath thereof made by one witness before any justice of the peace of any other county riding division city borough town corporate or place (which oath shall be by him certified by indorsement on such warrant), such penalty forfeiture fine or other money, or so much thereof as may not have been before levied or paid, shall and may by virtue of such warrant and indorsement be raised and levied by the person or persons to whom such warrant of distress shall have been originally directed, by distress and sale of the goods and chattels of such person or persons in such other county riding division city borough town corporate or place; and the money arising by such distress and sale shall be applied and disposed of for such purpose and in like manner as if sufficient goods and chattels of such person or persons had been found within the jurisdiction of the justice originally granting such warrant; and if no such distress can be found such offender or offenders shall and may be forthwith proceeded against according to law.

Justices not accountable for Irregularities.

V. Provided always and be it further enacted, That no justice who shall endorse any certificate upon or authorise the execution of any such warrant of distress which may not have been granted within his jurisdiction, shall be answerable or accountable for any irregularity which may have been committed or done in or about the obtaining or granting of such warrant of distress.

PART VI.

CLASS XII.

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*Distress.**

[No. I.] 27 George II. c. 20.—An Act for the more easy and effectual Proceeding upon Distresses to be made by Warrants of Justices of the Peace.

'WHEREAS by many Acts of Parliament justices of the peace are 'empowered to issue warrants for the distress and sale of goods and 'chattels, but the charges of distraining keeping and sale of such goods 'and chattels are not provided for in all the said Acts, nor is there a time 'in all cases limited for the sale thereof, whereby inconveniences have 'arisen:' Therefore for remedy thereof, Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That in all cases where any justice or justices of the peace is or are or shall be required or empowered by any Act or Acts of Parliament now in force or hereafter to be made, to issue a warrant of distress for the levying of any penalty inflicted or any sum of money directed to be paid by or in consequence of such Act or Acts, it shall and may be lawful for the justice or justices granting such warrant therein to order and direct the goods and chattels so to be distrained to be sold and disposed of within a certain time to be limited in such warrant, so as such time be not less than four days nor more than eight days, unless the penalty or sum of money for which such distress shall be made together with the reasonable charges of taking and keeping such distress be sooner paid.

27 Geo. II. c. 20.

Justices to limit in their Warrants of Distress,

not less than Four nor more than Eight Days.

II. And be it further enacted, That the officer making such distress shall and is hereby empowered to deduct the reasonable charges of taking keeping and selling such distress out of the money arising by such sale; and the overplus (if any) after such charges and also the said penalty or sum of money shall be fully satisfied and paid, shall be returned on demand to the owner of the goods and chattels so distrained; and the officer executing such warrant if required shall shew the same to the person whose goods and chattels are distrained, and shall suffer a copy thereof to be taken.

Officer to deduct the Charges of keeping and selling; Overplus to be returned.

III. Provided always, That nothing herein contained shall extend or be construed to extend to alter or repeal any of the provisions or directions relating to distresses to be made for the payment of tithes and church rates by the people called *Quakers*, contained in an Act passed in the seventh and eighth years of his late Majesty King *William* the Third, intituled *An Act that the solemn Affirmation and Declaration of the People called* Quakers *shall be accepted instead of an Oath in the usual Form*; or in one other Act passed in the first year of his late Majesty King *George* the First, intituled *An Act for making perpetual an Act of the seventh and eighth Years of the Reign of his late Majesty King* William *the Third, intituled* An Act that the solemn Affirmation and Declaration of the People called *Quakers* shall be accepted instead of an Oath in the usual Form; *and for explaining and enforcing the said Act in relation to the*

Provisions relating to Tythes in 7 and 8 Will. 3. c. 34.

and 1 Geo. 1. c. 6. not altered.

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* For Statutes relating to Distress for Rent, see Part IV.

No. I.
27 Geo. II.
c. 20.

Payment of Tythes and Church Rates; and for appointing the Form of an Affirmation to be taken by the said People called Quakers *instead of the Oath of Abjuration.*

[No. II.] 33 George III. c. 55.—An Act to authorize Justices of the Peace to impose Fines upon Constables, Overseers, and other Peace or Parish Officers, for Neglect of Duty, and on Masters of Apprentices for Ill Usage of such their Apprentices; and also to make Provision for the Execution of Warrants of Distress granted by Magistrates.—[21*st June* 1793.]

[Inserted ante in this Volume, title *Apprentices*, Class II. No. XI.]

PART VI.

CLASS XIII.

Dogs.

[No. I.] 10 George III. c. 18.—An Act for preventing the Stealing of Dogs.

10 Geo. III. c. 18.

'WHEREAS the practice of stealing dogs hath of late years greatly increased: For remedy whereof may it please your Majesty that 'it may be enacted,' and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the first day of *May* one thousand seven hundred and seventy, if any person shall steal any dog (1.) or dogs of any kind or sort whatsoever from the owner or owners thereof, or from any person or persons intrusted by the owner or owners thereof with such dog or dogs; or shall sell buy receive harbour detain or keep any dog or dogs of any kind or sort whatsoever, knowing the same to have been stolen as aforesaid, every such person upon being convicted thereof upon the oath of one or more credible witness or witnesses, or by his or her own confession before any two or more justices of the peace for any county riding division or place, shall for the first offence forfeit and pay such sum of money not exceeding thirty pounds nor less than twenty pounds as to such justices shall seem meet, together with the charges previous to and attending such conviction, to be ascertained by such justice before whom such offender shall be convicted: And in case such penalty shall not be forthwith paid, such justices shall commit the offender to the common gaol or house of correction, there to remain without bail or mainprize for any time not exceeding twelve calendar months nor less than six calendar months, or until the penalty and charges shall be paid: And if any person having been convicted as aforesaid shall afterwards be guilty of the like offence, and shall be thereof convicted in like manner as aforesaid, every such person shall for every such offence forfeit and pay such sum of money not exceeding fifty pounds nor less than thirty pounds as to such justices shall seem meet, together with the charges previous to and attending such conviction, to be ascertained by such justices before whom such offender or offenders shall be so convicted: Which said penalties or any of them when recovered shall be paid one moiety thereof to the informer and the other moiety to the poor of the parish where the offence shall be committed; and upon non-payment thereof such justices shall commit (2.) the offender to the common gaol or house of correction, there to remain without bail or mainprize for any time not exceeding eighteen months nor less than twelve months, or until the penalty and charges shall be

First Offence to forfeit not less than 20*l.* &c.

Subsequent Offence to forfeit not less than 30*l.* &c.

(1.) I apprehend that there is not much ground for the doubt of Dr. Burn, whether this Provision would extend to stealing a Bitch: the Name being evidently intended to denote the Species. His other observations on the Act seem entitled to much greater attention.

(2.) A commitment for non-payment of a penalty upon conviction under this Statute is good, if it shew who the informer is and what the parish, although upon the conviction, as it is recited in the commitment, the informer is not named, and the Justices only adjudge the penalty to be applied in such manner as the law directs. Rex *v.* Helps, 3 M. & S. 331.

No. I.
10 Geo. III. c. 18.

paid; and such justices shall also order the said offender to be publickly whipped within three days after such commitment, in the town wherein such gaol or house of correction shall be, between the hours of twelve and one of the clock.

Justices to grant Warrants, &c.

II. And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for any one or more of his Majesty's justices of the peace in or for any county riding division or place, upon information to him or them made for that purpose, to grant a warrant or warrants to search for any dog or dogs stolen as aforesaid, and in case any such dog or dogs or the skin or skins of such dog or dogs shall upon such search be found, to take and restore every such dog or dogs or such skin or skins to the owner thereof; and the person or persons in whose custody or possession any such dog or dogs skin or skins shall be so found (in case it shall appear that such person was privy to such dog or dogs having been stolen as aforesaid, or that such skin or skins was the skin or skins of any dog or dogs stolen as aforesaid) shall respectively be subject and liable to the like penalties and punishments as persons convicted of stealing any dog or dogs are herein-before made subject and liable to.

Justices may cause to be drawn up the following

III. And for the more easy and speedy conviction of offenders against this Act be it further enacted, That all justices of the peace before whom any person or persons shall be convicted of any offence against this Act shall and may cause the conviction to be drawn up in the following form of words, or in any other form of words to the same effect, as the case shall happen; *videlicet*,

Form of Conviction.

'BE it Remembered, That on the day of in the year
' of our Lord *A. B.* is convicted before us,
' of his Majesty's Justices of the Peace for the county of
' (*specifying the Offence and the Time and Place when and*
' *where the same was committed, as the case shall be.*)
'Given under our hands and seals the Day and Year aforesaid.'

Appeal.

IV. Provided always, and be it further enacted, That if any person shall think himself or herself aggrieved by any thing done in pursuance of this Act, such person may appeal to the justices of the peace at the next general quarter sessions of the peace to be held for the county or place wherein the cause of complaint shall arise, and within four days after the cause of such complaint shall have arisen; such appellant giving or causing to be given fourteen days notice at least in writing of his or her intention to bring such appeal and of the matter thereof to the persons whose acts are complained against; and within two days after such notice entering into a recognizance before some justice of the peace for such county or place, with two sufficient sureties conditioned to try such appeal and abide the order of and to pay such costs as shall be awarded by the justices at such quarter session: And the said justices at such session upon due proof of such notice being given as aforesaid, and of the entering into such recognizance, shall hear and finally determine the causes and matters of such appeal in a summary way, and award such costs to the parties appealing or appealed against as they the said justices shall think proper; and the determination of such quarter sessions shall be final binding and conclusive to all intents and purposes; and no order made concerning any of the matters aforesaid or any other proceedings to be had touching the conviction or convictions of any offender against this Act, shall be quashed for want of form or be removed by *certiorari* or any other writ or process whatsoever into any of his Majesty's courts of record at *Westminster*.

PART VI.

CLASS XIV.

Examination.

[No. I.] 1 and 2 Philip and Mary, c. 13.—An Act touching Bailment of Persons.

[At length in Vol. VI.]

[No. II.] 2 and 3 Philip and Mary, c. 10.—An Act to take Examination of Prisoners suspected of any Manslaughter or Felony.

[At length in Vol. VI.]

* The following Statutes are inserted in Part V. title *Criminal Proceedings.*

PART VI.

CLASS XV.

Fireworks.

[No. I.] 9 and 10 William III. c. 7.—An Act to prevent the throwing or firing of Squibbs, Serpents, and other Fireworks.

9 & 10 Will. III. c. 7.

'WHEREAS much mischief hath lately happened by throwing casting and firing of squibbs serpents rockets and other fireworks, some persons having thereby lost their lives others their eyes others have had their lives in great danger and several other damages have been sustained by many persons, and much more may thereby happen if not speedily prevented:' For remedy whereof for the future, be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the five-and-twentieth day of *March* one thousand six hundred and ninety-eight, it shall not be lawful for any person or persons, of what age sex degree or quality soever, to make or cause to be made or to sell or utter or offer or expose to sale any squibbs rockets serpents or other fireworks, or any cases moulds or other implements for the making any such squibbs serpents rockets or other fireworks, or for any person or persons to permit or suffer any squibbs serpents rockets or other fireworks to be cast thrown or fired from out of or in his her or their house or houses lodgings or habi-

No Person whatsoever shall make, sell, &c. Squibbs, Rockets, Serpents, &c. or Cases, Moulds, &c. for making such Squibbs.

No. I.
9 & 10 Will. III. c. 7.

tations, or from out of or in any part or place thereto belonging or adjoining into any public street highway road or passage, or for any person or persons, of what degree quality or age soever, to throw cast or fire or to be aiding or assisting in the throwing casting or firing of any squibbs serpents rockets or other fireworks in or into any public street house shop river highway road or passage, and that every such offence shall be and is hereby adjudged to be a common nuisance.

Penalty on Persons throwing or firing Squibbs, &c.

II. And be it further enacted by the authority aforesaid, That if any person or persons, of what age sex degree or quality soever, from and after the said five-and-twentieth day of *March* shall make or cause to be made or shall sell give or utter or offer or expose to sale any squibbs rockets serpents or other fireworks, or any cases moulds or other implements for the making of any such squibbs rockets serpents or other fireworks, that then every such person or persons so offending and being thereof convicted before one or more justice or justices of the peace of the county limit division corporation or liberty, or chief magistrate of the place where such offence shall be committed, either by the confession of the party or parties so offending or the oath of two witnesses (which oath the said justice or justices of peace or chief magistrate is and are hereby empowered and required to administer) shall for every such offence forfeit the sum of five pounds: And if any person or persons whatsoever from and after the said five-and-twentieth day of *March* shall permit or suffer any squibbs serpents rockets or other fireworks to be cast thrown or fired from out of or in his her or their house or houses shops dwelling lodging or habitation or from out of or in any part thereof or place thereto belonging or adjoining into any public street highway road or passage or any other house or place whatsoever, that then every such person or persons so as aforesaid last offending and being thereof as aforesaid convicted shall for every such offence forfeit the sum of twenty shillings; the said several forfeitures to be levied by distress and sale of the goods and chattels of every such offender by warrant under the hand and seal of the said justice or justices of the peace or chief magistrate before whom such conviction or convictions shall be as aforesaid made; the one half of the said forfeitures to be to the use of the poor of the parish where every such offence shall be committed and the other half to the use of him or them who shall prosecute and cause such offender or offenders to be as aforesaid convicted.

or suffering them, &c. to be thrown or fired from their Houses.

Forfeitures how to be levied and applied.

III. And be it further enacted by the authority aforesaid, That if any person or persons, of what age sex degree or quality soever, from and after the said five-and-twentieth day of *March* shall throw cast or fire or be aiding or assisting in the throwing casting or firing of any squibbs rockets serpents or other fireworks in or into any publick street house shop river highway road or passage, that then every person so offending and being thereof as aforesaid convicted shall for every such offence forfeit the sum of twenty shillings to the uses aforesaid; and if the person or persons so as aforesaid last offending shall not immediately (upon his her or their being thereof as aforesaid convicted) pay to the said justice or justices of of the peace or chief magistrate before whom such conviction shall be as aforesaid made the said forfeiture or forfeitures for the uses aforesaid, that then every such justice or justices of the peace or chief magistrate is and are hereby empowered and required by warrant under his or their hands and seals to commit every such person or persons so as aforesaid last offending to the house of correction within the county division limit corporation or liberty where such offence as is last mentioned shall be committed, there to remain to be set and kept to hard labour without bail or mainprize for any time not exceeding one month, unless such offender as is last mentioned shall sooner pay such forfeiture or forfeitures to the said justice or justices of the peace or chief magistrate.

Offender not paying Forfeiture to be committed to the House of Correction, &c.

IV. Provided always, and be it further enacted by the authority aforesaid, That it shall and may be lawful to and for the master lieutenant or commissioners of his Majesty's ordnance for the time being or any other person or persons to be by them or any of them authorised to give orders and directions for the making any sort of fireworks to be used and fired

Officers of the Ordnance, &c. may order the making of Fireworks, &c.

No. I.
9 & 10 Will. III. c. 7.

according to such orders and directions as shall be from time to time given by the said master lieutenant, or commissioners of his Majesty's ordnance or any other person or persons to be by them for that purpose authorised; any thing herein contained to the contrary thereof in any wise notwithstanding.

Artillery Company of London, &c. may use any Sorts of Fireworks in the Exercise of Arms, &c.

V. Provided always and be it enacted, That it shall and may be lawful to and for the Artillery Company of the City of *London* or any other artillery company or society of persons lawfully met together for the use and exercise of arms, the Trained Bands, the Militia of this kingdom respectively, to make and use any sorts of fireworks in the exercise and practice of arms and warlike exploits only, in such manner as they or any of them might lawfully have done before the making of this Act; any thing herein contained to the contrary thereof in any wise notwithstanding.

General Issue.

Treble Costs.

VI. And be it further enacted by the authority aforesaid, That if any person be at any time sued for putting in execution this Act or any the powers therein contained, that then such person so sued shall and may plead the general issue of not guilty and give the special matter in evidence; and if the plaintiff in such suit or action be nonsuit or a verdict pass for the defendant, or if such plaintiff discontinue his action or if upon a demurrer judgment be given for the defendant, every such defendant shall have his full treble costs, to be paid by such plaintiff, and the like execution for the same as in any case where costs are given at law for the defendant.

PART VI.

CLASS XVI.

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*Fish.**

* In making the following Collection of the Statutes relating to this Title, I have availed myself of the assistance of Mr. Chitty's Appendix to his Treatise on the Game Laws, and on Fisheries; and have interlined all such Statutes connected with the Plan of the Work as relate to the subject, although they may not fall immediately within the object of this part of it, as relating to the Office of a Justice of Peace. Some of the more ancient Statutes may have become obsolete in practice, and inapplicable to the existing state of the law; but as the space which they occupy is very inconsiderable, I have thought it more eligible that they should be inserted. The Titles only are noticed of such as are of a local nature, and which relate to the Regulation of the Fishery as a Branch of Commerce; and no mention is made of those which relate to the Herring or Greenland Fisheries.

[No. I.]—Magna Charta.—9 Henry III. Stat. 1. c. 23. In what Places Wears shall be put down.

9 Henry III. c. 23.

ALL wears from henceforth shall be utterly put down by *Thames* and *Medway*, and through all England except by the sea-coast.—(*Confirmed and amended by* 12 *Edw.* 4 *c.* 7.—*See* 2 *Inst.* 38.—10 *Co.* 138.—13 *Co.* 35). (1.)

(1.) See Weld *v.* Hornby, 7 East. 195.

[No. II.] Stat. Westm. 2. c. 47. Anno 13 Edward I. stat. 1. c. 47.

13 Edward I. st. 1. c. 47.

The Penalty of taking Salmons at certain Times of the Year.

IT is provided that the waters of Humber Owse Trent Done Aire Derewent Wherfe Nidd Yore Swale Tese Tine Eden and all other waters (wherein salmons be taken) within the kingdom, shall be in defence for taking salmons from the Nativity of *Our Lady* unto *St. Martin's Day*. And that likewise young salmons shall not be taken nor destroyed by nets nor by other engines at millpools, from the midst of *April* unto the Nativity of *St. John Baptist*. And in places where such rivers be there shall be assigned overseers of this statute, which being sworn shall oftentimes see and inquire of the offenders: and for the first trespass they shall be punished by burning of their nets and engines: and for the second time they shall have imprisonment for a quarter of a year: and for the third trespass they shall be imprisoned a whole year: and as their trespass increaseth so shall the punishment. (Confirmed by 13 *R.* 2. *st.* 1. *c.* 19. 17 *R.* 2. *c.* 9. *St.* 25 *H.* 8. *c.* 7. and see 2. *Inst.* 477.)

[No. III.] Prerogativa Regis, made Anno 17 Edw. II. st. 1. and A. D. 1324.—Cap. 11. His Prerogative in having the Wreck of the Sea, Whales and Sturgeons.

17 Edward II. st. 1. c. 11.

5 Co. 106. 108.
1 H. 7. f. 23.
11 H. 4. f. 16.
9 H. 7. f. 20.
35 H. 6. f. 27.

ALSO the King shall have wreck of the sea throughout the realm, whales and great sturgeons taken in the sea or elsewhere within the realm, except in certain places privileged by the King.

[No. IV.] 13 Rich. II. Stat. 1. c. 19. Anno Dom. 1389. —A Confirmation of the Statute of 13 Edw. I. c. 47. touching the taking of Salmons.

No. IV. 13 Rich. II. st. 1. c. 19.

13 Richd. II. c. 19.

A Confirmation of the Statute of 13 *Ed.* 1. 47. touching the prohibiting of Salmons to be taken certain times of the Year.

4 Inst. 51.

There shall be no Devices practised whereby the Frie of Fish shall be destroyed.

What Time of the Year the Rivers in the County of Lancaster shall be in Defence.

Conservators of this Statute and their Authority.

Item, WHEREAS it is contained in the Statute of *Westminster* the Second that young salmons shall not be taken nor destroyed by nets nor by other engines at mildams, from the midst of *April* till the Nativity of *St. John Baptist*, upon a certain pain limited in the same statute: it is accorded and assented that the said statute be firmly holden and kept, joining to the same that young salmons shall not be taken during the said time at mil-dams nor in other places upon the same pain: And that no fisher or garthman, nor any other of what estate or condition that he be, shall from henceforth put in the waters of Thamise Humber Ouse Trent nor any other waters of the realm by the same time, nor in any other time of the year, any nets called stalkers nor other nets nor engines whatsoever they be, by the which the frie or the breed of the salmons lampreys or any other fish may in any wise be taken or destroyed upon the pain aforesaid: And also where it is contained in the same statute that all the waters in which salmons be taken within the realm, shall be put in defence as to the taking of salmons from the Day of the Nativity of *Our Lady* until *St. Martin's Day*: it is ordained and assented, that the waters of Lone Wyre Mersee Rybbyl and all other waters in the county of *Lancaster* be put in defence as to the taking of salmons from *Michaelmas day* to the Purification of *Our Lady* and in no other time of the year, because that salmons be not seasonable in the said waters in the time aforesaid. And in the parts where such rivers be, there shall be assigned and sworn good and sufficient conservators of this statute as it is ordained in the said statute of *Westminster*, and that they shall punish the offenders after the pain contained in the same statute without any favour thereof to be shewed. *St.* 17 *R.* 2 *c.* 9.

[No. V.] 17 Richard II. c. 9. Anno Dom. 1393.—Justices of the Peace shall be Conservators of the Statutes made touching Salmons.

17 Richard II. c. 9.

St. 13. *Ed.* 1.
St. 1. *c.* 47.
St. 13. *R.* 2.
St. 1. *c.* 19.

Stalkers nor other Nets shall be used to Destroy the Frie or Breed of Fish.

Item, WHERE it is contained in the Statute of *Westminster* the Second, that young salmons shall not be taken nor destroyed by nets or by other engines at the stanks of mills, from the midst of *April* till the Nativity of *St. John the Baptist*, upon a certain pain limited in the same statute: and whereas by a statute made the thirteenth year of the King that now is, it was ordained that the said Statute of *Westminster* the Second should be firmly holden and kept, joyning to the same that young salmons should not be taken at the mills stanks or elsewhere upon the said pain: And that no fisher nor garthman, nor none other of what estate or condition that he were, should not put from henceforth in the waters of Thamis Humber Ouse Trent nor none other water of the realm by the same time, nor by none other time of the year, any nets called stalkers nor other nets or engines whatsoever, whereby the frie or breed of salmons lampreys or of any other fish whatsoever may in any wise be taken or destroyed upon the pain aforesaid: And also it was rehearsed in the said statute made the said thirteenth year, that where it is contained in the same Statute of *Westminster* that all the waters in which salmons be taken in the realm shall be put in defence as to the taking of salmons from the Day of the Nativity of *Our Lady* till *St. Martin's Day*: it was ordained and assented in the said statute made in the said thirteenth year that the waters of Lone Wire Mersee Ribbil and all other waters in the county of *Lancaster* should be put in defence as to the taking of salmons from the Day of *St. Michael* till the Day of the Purification of *Our Lady* and in none other time of the year, because that salmons be seasonable in the said waters by the time aforesaid: and that in the parts where such rivers be, good and sufficient conservators of the said statute made the

No. V.
17 Rich. II. c. 9.

said thirteenth year should be assigned and sworn as it was ordained in the Statute of *Westminster*, and that they should punish the offenders upon the pain contained in the same Statute of *Westminster* without shewing any favour thereof: which statutes have not been hitherto duly executed for default of good conservators, as our said Lord the King hath perceived by complaint to him made in this present Parliament: wherefore it is accorded and assented that the justices of the peace of all the counties of England, shall be conservators of the said statutes in the counties where they be justices; and that they and every of them at all times when they may attend shall survey the offences and defaults attempted against the statutes aforesaid. And also shall survey and search all the wears in such rivers that they shall not be very straight for the destruction of such fry and brood but of reasonable wideness after the old assise used or accustomed: and that the same justices or any of them which shall find default or abuse against the statutes aforesaid, shall make due punishment of them which be found in default after the contents of the same statute. And that the same justices shall put good and sufficient under-conservators of the same statutes under them, which shall be sworn to make like surveying search and punishment without any favour thereof to be shewed. And moreover that the same justices in their sessions shall inquire as well by their office as at the information of the under-conservators aforesaid, of all trespasses misprisons and defaults made against any of the points aforesaid, and shall cause them which be thereof indicted to come before them; and if they be thereof convict they shall have imprisonment and make fine after the discretion of the same justices. And if the same be at the information of any of the under-conservators aforesaid, the same under-conservator shall have half of the same fine. And forasmuch as it is granted to the citizens of London by the King's progenitors, that they may remove and take away all the wears in the waters of Thamis and Medeway, and that they shall have the punishments thereof pertaining to the King: our said Lord the King in this present Parliament by the assent aforesaid hath granted, that the mayor or warden of *London* for the time being shall have the conservation of the statutes aforesaid: and shall make thereof due execution and like punishment as afore is ordained of the justices of the peace in the said waters of Thamis from the bridge of *Staines* to *London* and from thence over the same water and in the said water of Medeway as far as it is granted to the said citizens as afore is said.

The Justices of the Peace shall be Conservators of the Statutes of 13 *Ed. I. c.* 47. and 13 *R. II. c.* 19.

Under-conservators appointed by the Justices.

The Mayor of London shall have the Conservation of the Statute in the Thamis.

[No. VI.] 2 Henry VI. c. 15. Anno Dom. 1423.—No Man shall fasten Nets to any Thing over Rivers.

2 Hen. VI. c. 15.

Item, IT is ordained, That the standing of nets and engines called trinks and all other nets which be and were wont to be fastened and hanged continually day and night by a certain time in the year to great posts boats and ancres overthwart the river *Thames* and other rivers of the realm, which standing is a cause of as great and more destruction of the brood and fry of fish and disturbance of the common passage of vessels as be the wears kydels or any other engines, be wholly defended for ever. And that every person that setteth or fastneth them hereafter to such posts boats and ancres or the like thing continually to stand as before is said, and be duly thereof by the course of the law convict, shall forfeit to the King 100 shillings at every time that he is so proved in default. Provided always, That it shall be lawful to the possessors of the said trinks if they be of assise to fish with them in all seasonable times, drawing and pulling them by hand as other fishers do with other nets, and not fastening or tacking the said nets to posts boats and ancres continually to stand as afore is said. Saving always to every of the King's liege people their right title and inheritance in their fishings in the said water.

The Penalty of those which do fasten Trinks or other Nets over any River.

In what Sort Owners of Trinks may Fish with them.

[No. VII.] 31 Henry VIII. c. 2. A. D. 1539.—An Act that Fishing in any several Pond or Mote, with an Intent to steal Fish out of the same, is Felony.

No. VII. 31 H. VIII. c. 2.

31 Hen. VIII. c. 2.

'WHEREAS divers and many of the lords knights esquires gentlemen and other the King's subjects within this his realm at their great costs and charges have caused to be made within their several grounds many ponds stews and motes and stored them with divers kinds of fishes as pikes bremes carps tenches and other fishes whereof they have thought to have had great commodity as well for the pleasure of their friends as for their own commodity and profit towards the necessary finding of their houses, divers and many light and unreasonable persons of this realm, being of no good rule nor honesty little or nothing regarding God the fear of their Sovereign Lord the King's highness nor his laws, have not only fished the said ponds stews and motes as well by night as by day with nets hooks and baits of divers sorts but also with great number of misruled persons have entered into such grounds and there with great violence have broken up the heads of the same ponds stews and motes and destroyed and taken the fish of the said ponds stews and motes to the great displeasure and losses of the owners of the said ponds stews and motes and contrary to all good reason right and conscience:' Wherefore be it enacted by the King our Sovereign Lord, with the assent of the Lords Spiritual and Temporal and the Commons in this present Parliament assembled, and by the authority of the same, That as well all manner of fishings with any nets hooks or baits of what kind soever they be in any several pond stew or mote, with an intent to steal fish out of the same, done or committed at any time after the Feast of the Nativity of *St. John Baptist* next coming, that is to say in the thirty-first year of the reign of our said Sovereign Lord, from the hour of six in the even-tide unto the hour of six in the morning, against the wills and minds of the owners or possessioners of such ponds stews or motes, as also the unlawful breaking up of the head of any several pond stew or mote by day or by night after the said Feast without colour of title so to do, whereby any fish of the same pond stew or mote is taken or destroyed against the will or mind of the owner or possessioner of the same, be to all intents deemed taken and adjudged felony; and that those persons so offending shall have and suffer all such pains of death and punishments as other felons ought to have and suffer for felony by the course of the laws of this realm.'

All Fishing with Nets, &c. with Intent to steal Fish in the *Night*, or breaking the Head of a Pond to take Fish, shall be Felony. This Section repealed by 1 *Ed.* 6. *c.* 12. 1 *M. s.* 1. *o.* 1.

II. And also be it further enacted by the authority aforesaid, That if any such evil-disposed persons after the Feast before limited do fish in the day-time at any other time than is before rehearsed, in any such several ponds stews or motes with any manner of nets hooks or baits as is aforesaid what kind soever they be of, against the will pleasure and mind of the owners or possessors of the same several ponds stews or motes, not having any manner of colour of title so to do, and thereof be lawfully convict at the suit of our Sovereign Lord the King or the party grieved, that then the said parties so convicted shall suffer imprisonment by the space of three months, and after the said three months expired shall find sufficient surety for his or their good abering, or else to remain still in prison without bail or mainprize unto such time he or they can find such surety.

Punishment of Persons fishing in Day-time.

[No. VIII.] 1 Eliz. c. 17.—An Act for the Preservation of Spawn and Fry of Fish.

1 Eliz. *c.* 17.

FOR the preservation hereafter of spawn fry and young breed of eeles salmons pikes and of all other fish which heretofore hath been much destroyed in rivers and streams salt and fresh within this realm in so much that in divers places they feed swine and dogs with the fry and spawn of fish and otherwise (lamentable and horrible to be reported)

No Person shall take the Spawn or Fry of any Fish. 13 *Edw.* 1. *c.* 47.

No. VIII.
1 Eliz. c. 17.

destroy the same to the great hinderance and decay of the commonwealth; Be it therefore enacted by the Queen's most excellent Majesty, the Lords Spiritual and Temporal and the Commons in this present Parliament assembled, and by the authority of the same, That no person or persons of what estate degree or condition soever he or they be from and after the first day of *June* next coming, within any manner of net weele but taining kepper lime crele raw fagnet trolnet trimenet trimbote staltbote weblister seur lammet, or with any device or engine made of hair wool line or canvass, or shall use any heling net or trim-boat, or by any other device engine cawtel wayes or means whatsoever heretofore made or devised or hereafter to be made or devised, shall take and kill any young brood spawn or fry of eeles salmon pike or pikerel, or of any other fish in any floudgate pipe at the tail of a mill weare or in any straits streams brooks rivers fresh or salt within this realm of *England Wales Berwick* or the Marches thereof; nor shall from and after the first day of *June* next coming by any of the ways and means aforesaid or otherwise in any river or place above specified, take and kill any salmons or trowts not being in season being kepper salmons or kepper trowts shedder salmons or shedder trowts.

None shall take any Salmons or Trowts not in Season.

Of what Length Fishes must be, that shall be taken and killed.

II. And be it further enacted by the authority aforesaid, That no person or persons, of what estate degree or condition he or they shall be of, from and after the said first day of *June* by any of the means aforesaid, in any of the rivers or places above-named shall take and kill any pike or pikerel not being in length ten inches or more; nor any salmon not being in length sixteen inches and more; nor any trowt not being in length eight inches or more; nor any barbel not being in length twelve inches or more.

Of what Mesh each Net shall be.

III. And to the intent the said young fry brood or spawn may be preserved according to the true meaning hereof, Be it further enacted by the authority aforesaid, That no manner of person or persons from and after the first day of *June* next coming shall fish or take fish with any manner of net tramell kepe wore hivie crele or by any other engine device ways or means whatsoever, in any river or other places above mentioned but only with net or tramell, whereof every mesh or mask shall be two inches and a half broad, angling excepted.

What Nets or other Devices may be used for the taking of small Fish.

IV. Provided nevertheless, and be it enacted by authority aforesaid, That in all such places where smelts loches minneis bulheads gudgeons or eeles have been used to be taken and killed, that in all such places it shall be lawful only for the taking of smelts loches minneis gudgeons and eeles to use such nets lepes and other engines devices ways and means as heretofore have been used for the taking of the same; so that such person or persons using or occupying such nets or other engines as is last afore-mentioned do not take kill or destroy any other fish with the said nets or engines contrary to the tenour and form above in this statute contained.

The Penalty of the Offender altered by 1 *Geo.* 1. c. 14. *st.* 2. *c.* 13. *s.* 14.

V. And be it further enacted, That if any person or persons after the above said day limited in this present Act offend in any of the points before rehearsed contrary to the tenour form and purpose of any part of the same, that then every such person and persons so offending shall lose and forfeit for every time of his or their offence the sum of twenty shillings and the fish so taken contrary to the tenour hereof, and also the unlawful nets engines devices and instruments whatsoever they be wherewith or whereby such offence shall fortune to be made committed or done.

What Persons shall have Authority to inquire of and determine the Offences aforesaid, and who shall have the Forfeitures.

VI. And to the intent that a perfect execution may be had of this present Act, be it further ordained by authority aforesaid, That the Lord Admiral of *England* and the Mayor of the city of *London* for the time being and all and every other person and persons bodies politick and corporate which by grant or other lawful ways or means lawfully have or ought to have any conservation or preservation of any rivers streams or water or punishments and corrections of offences committed in any of them, shall have full power and authority by virtue of this Act to inquire of all the offences to be committed and done contrary to the effect and

true meaning of this Act within his or their such lawful rule government jurisdiction and conservancy by the oaths of twelve men or more, and to hear and determine all and every the same offences committed within his or their such jurisdiction conservancy rule and government.

VII. And that all such pains and forfeitures as shall rise or grow by the reason of any such conviction for any the offences aforesaid shall be to the use of every of the said person and persons, being no body politick or corporate nor head of any body politick or corporate, before whom such conviction as is aforesaid shall be had, and to the use of every such body politick and corporate as heretofore have lawfully had any fines forfeitures and amerciaments for any offence lawfully committed or done in any such their jurisdiction or conservances upon conviction had before the head of any such body politick or corporate.

VIII. And that also the lord of every leet within this realm of *England* and *Wales* or the dominions of the same shall have full power and authority to inquire of all the offences contrary to the purport tenour and form of this estatute within the precinct of their said leet; such inquiry to be had in manner and form and after such sort as common amerciaments or other things inquirable in their court leet have been lawfully used and accustomed to be had and made.

IX. And that upon every such presentment had in any court or leet by the oath of twelve men or more as is aforesaid, of any offence or offences made contrary to the tenour of this estatute: that then all such forfeitures above in this estatute limited and appointed for such offence shall be unto the lord of the said leet for the time being to his own use for ever, and shall be levied in such manner and form as amerciaments for affrays committed within the precinct of such leet have been used and accustomed to be levied.

The Forfeiture of the Steward of a Leet, that doth not give this Statute in charge.

X. And if any leet after the said first day of *June* be kept within this realm of *England* or *Wales* or the dominions thereof, and the steward of the said leet for the time being or other for him do not charge the jury sworn in such leet to inquire of all the offences done within the precinct of the said leet contrary to the tenour and form of this estatute; that then the steward of the said leet to lose and forfeit forty shillings; the one moiety of which forfeitures shall be to the Queen's Majesty her heirs and successors, and the other moiety to him that will sue for the same. And if any jury sworn in any leet and being charged to inquire of the offences committed within the precinct of that leet do wilfully and willingly conceal and make default in presentment or do not present the offence and offenders; that then it shall be lawful to the steward or baily of the leet or his or their deputy for the time being to impanel one other jury within the said leet, and to inquire of such concealment default or non-presentment, and that upon such concealment default or non-presentment found and presented every of the said jurors which so did conceal make default or not present shall lose and forfeit for every such offence twenty shillings to the lord of the said leet, the same to be levied in manner and form as is aforesaid for the other offences limited and expressed.

The Forfeiture of a Jury in a Leet, that doth conceal any Offence.

Who may punish the said Offences, if they be not presented in the Leet.

XI. And it is further enacted by authority aforesaid, That if the offences above-mentioned, touching the taking killing or destroying of fish or fry and spawn, be not presented at the leet where they shall be committed within one year next after the offence committed, that the justices of peace in their sessions justices of oyer and determiner and justices of assize in their several circuits shall have full power and authority to inquire thereof and to hear and determine all the offences committed contrary to the tenour of this estatute.

A Saving of the Liberties of all Persons having Right to inquire of and punish the said Offences.

XII. Saving always to all and every person or persons bodies politick and corporate and every of them all such right title interest claim privilege and conservation and inquiry and punishment of and for any the offences aforesaid as they or any of them lawfully have and enjoy or of right ought to have and enjoy by any manner of means; any thing in this Act to the contrary notwithstanding. This Act to endure to the end of the next Parliament. *(Continued, see below.)*

No. VIII.
1 Eliz. c. 17.

To what Persons or Waters this Statute doth not extend.

XIII. Provided always, That this Act nor any thing therein contained shall not extend to the fishing of the river or water of Tweed; nor to any river or water whereof the Queen's Majesty is answered of any yearly rent or profit; nor to the owners farmers and occupiers of the rivers of Uske or Wye in the county of *Monmouth*, for any fish hereafter to be taken in any the rivers or waters before-mentioned and expressed: but that it shall be lawful at all seasonable time and times hereafter for such as have or shall have any manner of interest therein to take and fish the said rivers and waters in such manner and form as heretofore hath been used and accustomed, not using any net or engine to the intent willingly to take kill and destroy the spawn breed or fry breeding any kind of fish within the said several rivers or waters; this Act or any thing therein mentioned or contained to the contrary notwithstanding. 3 *Car.* 4. *made perpetual, except as to this last section. See* 3 *Jac.* I. *c.* 12. 30 *Car.* II. *st.* 1. *c.* 9. 4 & 5 *Wm. & Mary, c.* 23. 4 *Ann. c.* 21. 9 *Ann. c.* 26. 1 *Geo.* I. *st.* 2. *c.* 18. 5 *Geo.* I. *c.* 18. 23 *Geo.* II. *c.* 26. *s.* 7. 26 *Geo.* II. *c.* 9. 30 *Geo.* II. *c.* 21 & 30.—*and* 33 *Geo.* II. *c.* 27.

[No. IX.] 5 Eliz. c. 21. A. D. 1562.—An Act for punishing of unlawful taking of Fish, Deer, or Hawks.

5 Eliz. c. 21.
How Persons for unlawful fishing, hunting in a Park, and taking of Hawks or Hawks' Eggs out of another's Ground, shall be punished.

WHERE as well as the Queen's Majesty and her most noble progenitors as also the noblemen gentlemen and divers other persons of great dominions lordships manors and possessions within this realm have of ancient and long time had and many of them now of late to their great costs and charges for the necessary and better provision and maintenance of their households have erected and made in and upon their several demeans grounds and possessions, as well pooles stagnes stewes motes pits or ponds for the only increase of fish, and have stored the same with pikerel breme tench carp and divers others good kinds of fish for the necessary increase of victuals and for the better maintenance and provision of their houses as is aforesaid, and also have imparked environed and enclosed many parcels of their said demeans soils grounds and possessions for the breeding cherishing and increase as well of red as fallow deer within their several parks and inclosures for the causes afore-declared, and also have breeding within their woods and grounds divers eyries of hawks of sundry kinds to their great pleasure and commodity: Yet nevertheless, the said several waters grounds parks and inclosures so being had erected and made, and also being so stored and replenished have been from time to time by evil-disposed persons of a very evil wilful and insolent disposition and of malice and displeasure not only by night-time broken and entered into but also the heads or dammes of the said ponds pools stagnes motes stews or several waters have been maliciously wilfully and unlawfully cut out, and the pales fences and inclosures of the said parks and grounds broken cast down and set open, and the fish deer and hawks within the same taken destroyed carried away and stolen, not only to the great loss and damage of the owners thereof and to the small encouragement of other good subjects minding the careful provision of such necessary victuals, but also to the manifest emboldening of many like wilful malefactors and malicious offenders, whereby many riots manslaughters mischiefs and other inconveniences have been daily perpetrated, and are like to be committed and done, if circumspect remedy be not hereunto provided.

The Penalty for Destroying of any Pool, Pond, &c. or for the taking of any Fish. 31 *H.* 8, *c.* 2.

II. Be it therefore enacted by the Queen's Majesty the Lords Spiritual and Temporal and the Commons of this present Parliament aasembled, and by the authority of the same, That if any person or persons after the Feast of *Pentecost* next coming shall at any time by day or by night unlawfully without authority break cut down cut out or destroy any head or heads dam or dams of any ponds pools motes stagnes stewes or several pits wherein fish are or shall happen to be put in or stored withal by the owners or possessioners thereof or do or shall wrongfully fish in any of the said several ponds pools motes stagnes stewes or pits to the

No. IX.
5 Eliz. c. 21.

intent to destroy kill take or steal away any of the same fish against the will mind or pleasure of the owners or possessioners of the same not having any lawful title or authority so to do, and thereof be lawfully convicted at the suit of our Sovereign Lady the Queen her heirs or successors or the party grieved, shall suffer imprisonment of his or their bodies by the space of three months and shall yield and pay to the party grieved his treble damages; and after the said three months expired shall find sufficient sureties for his or their good abearing against the Queen our Sovereign Lady her heirs and successors and all her liege people for the space of seven years after; or else shall remain and continue still in prison without bail or mainprize, until such time as he or they so offending can and shall find sufficient sureties during the said time and space of seven years as is aforesaid.

[III. The penalty for breaking of a park and hunting of deer. 3 *Jac.* I. *c.* 13. *Co. Pl.* 361.—The penalty for taking of hawks or hawks' eggs out of another's grounds.]

[IV. A park inclosed without licence of the Queen, &c.]

The Remedy of the Party grieved, and before whom.

V. Provided always and be it enacted by the authority aforesaid, That it shall be lawful for the party grieved to sue and take his further remedy against all and every such offender and offenders for his loss and damages, and to recover the treble value of the same in this behalf as well before justices of oyer and determiner justices of assizes in their circuits and justices of the peace as elsewhere in any other the Queen's courts of record; and that upon the true satisfaction of the said treble damages to the party grieved or upon the confession and knowledge thereof by the same party before the said justices in open sessions to be holden within the county where the offence was committed, it shall be at the liberty of the same party grieved to whom the said offence was committed to release at his pleasure the said suretiship of good abearing at any time within the said seven years or before; any thing in this present Act before specified or expressed to the contrary notwithstanding.

The Party grieved may release the Suretiship of good Abearing.

What Justices may hear and determine the Offences aforesaid.

VI. And be it further enacted by the authority aforesaid, That the justices of oyer and determiner justices of assize in their circuits and justices of the peace and gaol delivery in their sessions shall by virtue hereof have power and authority to inquire hear and determine all and singular the offences aforesaid and to make and award process thereupon as well upon indictments taken before them as by bill of complaint information or any other action; in which suit or action no essoign wager of law nor protection shall be allowed.

In what Case the Justices of Peace may release the Offender of the good Abearing.

See 1 *Jac. c.* 27. 7 *Jac. c.* 13. 22 & 23 *Car.* 2. *c.* 25. 4 & 5 *W.* & *M.* *c.* 23. 5 *Ann. c.* 14. 9 *Ann. c.* 25. 3 *Geo.* 1. *c.* 11. 8 *Geo.* 1. *c.* 19. 10 *Geo.* 2. *c.* 32. 28 *Geo.* 2. *c.* 12.

VII. And be it further enacted by the authority aforesaid, That if any person or persons at any time hereafter shall fortune to be bound before any of the justices before-mentioned to the Queen her heirs or successors for his or their good abearing for seven years according to the tenour of this Act, and the same party or parties so bound shall afterwards within the said seven years come before the justices of the peace of the said county where the said offence was committed or some of them in open sessions, and there in the said open sessions confess and acknowledge his or their said offence or offences and be sorry therefore and satisfy the party or parties grieved according to the tenour of this Act; that then the said justices before whom the confession shall be so made shall and may have power and authority by virtue of this Act in the same open session or in any other open session afterwards to be holden before the said justices in the said county within the said term of seven years, if it shall seem good to their discretions, to discharge the said recognisance and bond so taken and also the said party and parties so bound; this Act or any thing therein contained to the contrary notwithstanding.

No. X.
3 Jac. I.
c. 12.

[No. X.] 3 James I. c. 12. A.D. 1605.—An Act for the better Preservation of Sea Fish.

3 Jas. I. c. 12.
13 *Ed.* I. c. 47.
The Forfeiture for setting up of a new Wear, or for destroying the Spawn or Fry of Fish.

'FORASMUCH as it is certainly known by daily experience that the brood of sea fish is spawned and lieth in still waters, where it may 'have rest to receive nourishment and grow to perfection, and that it is 'there destroyed by wears draw-nets and nets with canvas or like en-'gines in the middle or bosom of them in harbours havens and creeks 'within this realm, to the great damage and hurt of fishermen and hin-'drance of the commonwealth, for that every wear near the main sea 'taketh in twelve hours sometimes the quantity of five bushels some-'times ten sometimes twenty or thirty bushels of the brood of sea fish; 'and also those which use draw-nets, nets with canvas or engines in the 'midst of them, do every day they fish destroy the brood of all the sorts 'of fish aforesaid in great multitudes:'

Forfeiture for Fishing with certain Nets and Engines.

II. For reformation whereof be it enacted by the authority of this present Parliament, That every person and persons that from and after the five-and-twentieth day of *July* next ensuing this session of Parliament, shall erect or set up any new wear or wears along the sea shore or in any haven harbour or creek or within five miles of the mouth of any haven or creek, or shall willingly take destroy or spoil any spawn fry or brood of any sea fish (1.) in any wear or other engine or device whatsoever, shall forfeit for every time so erecting setting up taking destroying or spoiling, contrary to this Act, the sum of ten pounds of good and lawful money of *England*, the one half to the King's Majesty his heirs or successors, and the other half to him that will sue for the same: and that every person which after the first day of *October* next ensuing this session of Parliament in any haven harbour creek or within five miles of the mouth of any haven harbour or creek of the sea, shall fish with any draw-net or drag-net under three inches meash, *viz.* one inch and an half from knot to knot except for the taking of smoulds in *Norfolk* only, or with any net with canvas or other engine or device, whereby the spawn fry or brood of sea fish may be destroyed, shall forfeit such net and also forfeit for every time so doing ten shillings of lawful money of *England*, the one half to the use of the poor people of the city town corporate borough market town parish or liberty where the offence or offences shall be committed, and the other half to the person that shall sue for the same; the said forfeitures to be levied to the uses aforesaid by the mayor bailiff or other head officer of every city borough or town corporate: and by warrant of one or more justices of peace it shall be lawful for the constables and churchwardens of every market town parish or liberty within which any such offence or offences shall be done, by way of distress and sale of the offender's goods, rendering to them the surplusage, according to the order of former statutes in such cases of forfeitures ordained.

What Sort of Fish may be taken with the Nets prohibited.

III. Provided always, That this Act or any thing therein contained, shall not extend to punish any person or the persons for using any net or nets of lesser meash than is by statute appointed only for taking of herrings pilchards sprats or lavidnian; any thing in this Act to the contrary in any wise notwithstanding.

IV. Provided further, That this Act shall not extend to the isle and county of *Anglesey*.

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(1) V. Bridges *v.* Richardson, 2 M. & S. 568.

[No. XI.] 22 & 23 Car II. c. 25. A.D. 1670.—An Act for the better Preservation of the Game, and for securing Warrens not inclosed, and the several Fishings of this Realm.

[Inserted post. title *Game*, p. 217.]

[No. XII.] 30 Car. II. c. 9. A. D. 1678.—An Act for Preservation of Fishing in the River of *Severn*.

No. XII. 30 Car. II. c. 9.

[No. XIII.] 4 and 5 William and Mary, c. 23.—An Act for the more easy Discovery and Conviction of such as shall destroy the Game of this Kingdom.

[Inserted post. title *Game*.]

[No. XIV.] 10 and 11 William III. c. 24. A.D. 1690. —An Act for making *Billingsgate* a free Market for Sale of Fish.

[No. XV.] 4 Annæ, c. 21. A.D. 1705.—An Act for the Increase and better Preservation of Salmon and other Fish, in the Rivers within the Counties of *Southampton* and *Wilts*.

[No. XVI.] 9 Annæ, c. 26. A.D. 1710.—An Act for the better Preservation and Improvement of the Fishery within the River of *Thames*, and for regulating and governing the Company of Fishermen of the said River.

[No. XVII.] 1 George I. St. 2. c. 18. A.D. 1714.—An Act for the better preventing fresh Fish taken by Foreigners being imported into this Kingdom; and for the Preservation of the Fry of Fish; and for the giving Leave to import Lobsters and Turbets in Foreign Bottoms; and for the better Preservation of Salmon within several Rivers in that Part of this Kingdom called *England*.

1 Geo. I. c. 18.

Meshes of Nets to be Three Inches and an Half from Knot to Knot.

IV. 'AND whereas of late years the breed and fry of sea fish has been greatly prejudiced and destroyed by the using of nets of too small size or mesh, and by other illegal and unwarrantable practices;' Be it enacted by the authority aforesaid, That from and after the twenty-fifth day of *September* one thousand seven hundred and sixteen, if any person or persons shall use at sea upon the coast of that part of *Great Britain* called *England*, any traul-net drag-net or set-net whatsoever for the catching of any kind of fish (except herrings pilchards sprats or lavidman) which hath any mesh or moke of less size than three inches and an half at least from knot to knot, or which hath any false or double bottom cod or pouch, or shall put any net or nets though of legal size or mesh upon or behind the others in order to catch or destroy the small fish which would have passed through any single net of three inches and half mesh, all and every such person and persons so offending shall forfeit all and singular such net or nets so used contrary to the true intent and meaning hereof, and also for every such offence the sum of twenty pounds of lawful money of *Great Britain*, to be recovered and levied in such manner and form as the penalty above inflicted upon the master of any vessel wherein fish shall be imported contrary to this Act is above directed to be recovered and levied; and in default of payment of the said twenty pounds or of sufficient distress, the offender to be imprisoned in like manner during the space of twelve months.

Nor shall any Net, though of legal Size, be put behind another.

on Penalty of Forfeiture thereof and 20*l*.

No. XVII.
1 Geo. I. st. 2. c. 18.

One Moiety to the Informer, the other to the Poor.

Illegal Nets to be burnt.

Penalty of selling unsizeable Fish. See 29 G. II. c. 39.

V. And it is hereby further enacted, That all penalties and forfeitures mentioned in this Act, except nets of illegal or false bottoms cods or pouches as aforesaid (all necessary charges for the recovery thereof being first deducted) shall be distributed and disposed of in manner following (that is to say) one moiety thereof to the informer, and the other moiety thereof to the poor of the parish where such offence shall be committed.

VI. And it is hereby further enacted and provided, That where any illegal nets of less mesh or moke than three inches and half at least from knot to knot or of false or double bottom cod or pouch shall be proved as aforesaid to have been forfeited, such net or nets shall by warrant of such justice or justices be publicly burnt.

VII. 'And for the further preservation of the said fry of fish,' be it enacted by the authority aforesaid, That if any person or persons shall at any time after the twenty-ninth day of *September* one thousand seven hundred and fifteen bring to shore in that part of *Great Britain* called *England*, sell offer or expose to sale or shall exchange for any other goods matter or thing any unsizeable fish, that is to say, bret turbet brill or pearl codlin whiting mullet bass plaice soles or flounders, which shall not be of the several lengths or sizes following, from the eyes to the utmost extent of the tail (*viz.*) every bret or turbet sixteen inches; every brill or pearl fourteen inches; every codlin twelve inches; every whiting six inches; every bass and mullet twelve inches; every sole eight inches; every plaice or dab eight inches; and every flounder seven inches; all and every person and persons so offending shall for every such offence forfeit all and every such unsizeable fish so brought on shore sold offered or exposed to sale or exchanged as aforesaid to the poor of the parish or place where such offence shall be committed, and also shall for every such offence forfeit and pay the sum of twenty shillings of lawful money of *Great Britain*, one moiety thereof to the informer and the other moiety thereof to the poor of the parish or place where the offence shall be committed, and to be levied and recovered as other penalties by this Act inflicted are directed to be levied and recovered; and in default of payment of the said forfeiture or of sufficient distress for satisfaction thereof, the offender shall by warrant of one or more justice or justices of the peace be sent to the next house or houses of correction or other common gaol or prison of any county city town or place where such offence shall be committed, there to be severely whipped and kept to hard labour for the space of six days and not longer than fourteen days.

VIII. Provided always, That where any person shall suffer imprisonment pursuant to this Act for any offence contrary hereunto in default of payment of or sufficient distress for any penalty hereby imposed, such person shall not be liable afterwards to pay such penalty.

IX. Provided always, That no person shall suffer any punishment for any offence committed against this Act, unless the prosecution for the same be commenced within one month after such offence committed; any thing herein contained to the contrary notwithstanding.

XIV. 'And whereas the several Acts of Parliament heretofore made 'for the preservation of fishing within the rivers of this realm have hi-'therto proved ineffectual in respect to the rivers Severn Dee Wye Teame 'Were Tees Ribble Mersey Dun Air Ouze Swaile Calder Wharf Eure 'Darwent and Trent, for want of a due encouragement to be given to 'such persons who would discover the many illegal practices and abuses 'done therein, and by reason of the dilatoriness and expensiveness of the 'suits and proceedings directed by the said Acts for punishing such 'abuses;' wherefore for remedy thereof and for the better securing the spawn fry and young breed of salmon in the said rivers, Be it further enacted by the authority aforesaid, That if any person or persons whatsoever shall at any time hereafter lay or draw any kind of nets engines or devices, or wilfully do or commit or cause to be done or committed any other act whatsoever in the said rivers or in any of them, whereby the spawn or small fry of salmon therein or any kepper or shedder salmons or any salmon not being in length eighteen inches or more from the eye to the extent of the middle of the tail shall be taken and killed

Destroying the Fry of Salmon in the Rivers Severn, Dee, &c.

No. XVII.
1 Geo. I. st. 2. c. 18.

or destroyed, or shall hereafter make erect or set any bank dam hedge or stank net or nets cross the said rivers or any part thereof, whereby the salmon therein may be taken or hindered from passing or going up the said rivers to spawn, or shall at any time hereafter between the last day of *July* and the twelfth day of *November* for ever, by or with any net device engine ways or means whatsoever, take kill destroy or wilfully hurt any salmon of any kind or size whatsoever, in the said rivers, or shall at any time after the said twelfth day of *November* fish there for salmon with any other net or nets than what is or are allowed of by an Act of Parliament made in the first year of the reign of Queen *Elizabeth*, intituled 'An Act for the Preservation of Spawn and Fry of Fish;' and by another Act made in the thirtieth year of the reign of our late Sovereign Lord King *Charles* the Second, intituled 'An Act for the Preservation 'of Fishing in the River *Severn*;' every person so offending in any of the said cases who shall be convicted thereof before any justice or justices of the peace for the county wherein the said offence shall be committed, either upon view of such justice or justices by confession of such offender or by one or more credible witness or witnesses upon oath (which oath every such justice of peace is hereby empowered to administer) shall forfeit the sum of five pounds for every such offence, besides the fish so taken and the nets engines and devices used in doing or committing the same; one moiety of the said sum to be paid to the informer or informers and the other moiety thereof to the poor of the parish where the said offence shall be committed; to be levied by distress and sale of the offender's goods and chattels by warrant under the hand and seal of the justice or justices of the peace before whom he shall be convicted as aforesaid, rendering the overplus if any be over and above the charges of the distress to the person so distrained; and for want of such distress the offender shall be committed to the house of correction or other county gaol or prison for any time not exceeding three months nor less than one month, there to be kept to hard labour and suffer such other corporal punishment as the said justice or justices upon consideration of the circumstances of such offence shall think fit; and the said justice or justices of the peace before whom the person so offending shall be convicted shall order such nets engines and devices made use of in taking such fish to be seized and immediately cut in pieces or otherwise destroyed in his or their presence, and shall also cause such banks dams hedges or stanks made or erected across the said river to be demolished and removed at the charges of such offender, such charges if not paid down on conviction to be levied in the same manner as the said sum of five pounds is appointed to be levied. (*Altered by* 23 *Geo.* 2. *c.* 26. *s.* 7.)

and taking Salmons in the said Rivers between the last of July and November 12, with any other Net, &c. than are allowed by 1 *Eliz. c.* 17. and 30 *Car.* 2. *st.* 1. *c.* 9. the Offender shall forfeit 5*l.* besides the Fish and Nets, to be levied by Distress;

and for Want thereof be committed to the House of Correction, &c. and Nets, &c. to be destroyed,

and Banks, &c. removed at the Charges of the Offender.

XV. 'And whereas several fishmongers of *London* and other cities and 'towns by themselves or their agents frequently buy and contract with 'the fishermen using the said rivers of Severn Dee Wye Teame Were 'Tees Ribble Mersey Dun Air Ouse Swaile Calder Wharf Eure Darwent 'and Trent or others employed by them for great quantities of salmon 'to be taken in the said rivers, which gives great encouragement to the 'taking salmon there of unsizeable lengths and at unseasonable times;' Be it therefore further enacted, That no such salmon shall be sent to *London* to such fishmongers or their agents that shall weigh less than six pounds each fish; and every person buying selling or sending any such salmon of less weight than six pounds who shall be convicted thereof in manner as aforesaid shall forfeit the sum of five pounds for every such offence besides the fish so to be bought and sold; one moiety of the said sum and fish to be paid and distributed to the informer or informers and the other moiety thereof to the poor of the parish where such offence shall be committed: the said sum if not paid upon conviction to be levied by distress and sale of the offender's goods and chattels by warrant under the hand and seal of the justice or justices of peace before whom he shall be convicted as aforesaid, rendering the overplus if any be over and and above the charges of such distress to the owner; and in default of sufficient distress, the offender shall be committed by such justice or for Want, to be committed for Three Months.

Sending to London from the said Rivers, or buying, &c. any Salmon less than Six Pounds weight each, forfeits 5*l.*

to be levied by Distress, and

No. XVII.
1 Geo. I. st. 2. c. 18.

justices to the house of correction or other county gaol or prison, there to be kept to hard labour for the space of three months, unless the said forfeiture shall be in the mean time paid.

XVI. Provided, That where any offender in the said rivers or in any of them shall be punished by force of this Act, he shall not be prosecuted nor incur the penalty of any other law or statute for the same offence.

Offenders punished by this Act, shall not incur the Penalty of any other Law.

Appeal.

XVII. Provided also and it is hereby enacted, That all persons who shall think themselves aggrieved by any judgment of any justice or justices of the peace in any of the cases aforesaid may appeal to the justices of the peace of the county city or place where such judgment shall be given at their next general quarter sessions, who are hereby empowered to hear and finally determine the same.

The Owners of ancient Wears and Locks may repair them, &c.

XVIII. Provided, That this Act or any thing herein contained shall not extend or be construed to extend to any ancient wears or locks upon any rivers; but that it shall and may be lawful for the proprietors or owners thereof to repair maintain rebuild remove or take down any of the said wears or locks, as they might have done in case this Act had not been made. *(Continued by* 23 *Geo.* 2. *c.* 26.)

[No. XVIII.] 9 Geo. II. c. 33.—An Act to render the Law more effectual for preventing the Importation of fresh Fish taken by Foreigners, and to explain so much of an Act made in the Thirteenth and Fourteenth Years of the Reign of King *Charles* the Second, as relates to Ships exporting Fish to the Ports of the Mediterranean Sea, and for the better Preservation of the Fry of Lobsters on the Coasts of *Scotland.*

[No. XIX.] 22 Geo. II. c. 49.—An Act for making a free Market for the Sale of Fish in the City of *Westminster;* and for preventing the Forestalling and Monopolizing of Fish; and for allowing the Sale of Fish under the Dimensions mentioned in a Clause contained in an Act of the First Year of his late Majesty's Reign, in case the same are taken with a Hook.

[No. XX.] 23 Geo. II. c. 26. s. 7. A. D. 1750.—An Act to amend so much of an Act made in the First Year of the Reign of King *George* the First, as relates to the better Preservation of Salmon in the River *Ribble.*

[No. XXI.] 29 Geo. II. c. 39. A. D. 1756.—An Act for explaining amending and rendering more effectual an Act made in the Twenty-second Year of his present Majesty's Reign, intituled 'An Act for making a free Market for the Sale of Fish in the City of *Westminster;* and for preventing the Forestalling and Monopolizing of Fish; and for allowing the Sale of Fish under the Dimensions mentioned in a Clause contained in an Act of the First Year of his late Majesty's Reign, in case the same are taken with a Hook.

[No. XXII.] 30 Geo. II. c. 21. A. D. 1757.—An Act for the more effectual Preservation and Improvement of the Spawn and Fry of Fish in the River of *Thames* and Waters of *Medway*; and for the better regulating the Fishery thereof.

No. XXII. 30 Geo. II. c. 21.

[No. XXIII.] 33 Geo. II. c. 27. A. D. 1759.—An Act to repeal so much of an Act passed in the Twenty-ninth Year of his present Majesty's Reign, concerning a free Market for Fish at *Westminster*, as requires Fishermen to enter their Fishing-vessels at the Office of the Searcher of the Customs at *Gravesend;* and to regulate the Sale of Fish at the first hand in the Fish-markets in *London* and *Westminster;* and to prevent Salesmen of Fish buying Fish to sell again on their own Account; and to allow Bret and Turbot, Brill and Pearl, although under the respective Dimensions mentioned in a former Act, to be imported and sold; and to punish Persons who shall take or sell any Spawn, Brood, or Fry of Fish, unsizeable Fish, or Fish out of Season, or Smelts under the Size of Five Inches; and for other Purposes.

[No. XXIV.] 2 Geo. III. c. 15. A. D. 1761.—An Act for the better supplying the Cities of *London* and *Westminster* with Fish, and to reduce the present exorbitant Price thereof; and to protect and encourage Fishermen.

[No. XXV.] 5 Geo. III. c. 14. A. D. 1765.—An Act for the more effectual Preservation of Fish in Fish-ponds and other Waters; and Conies in Warrens; and for preventing the Damage done to Sea Banks, within the County of *Lincoln*, by the breeding Conies therein.

P.

5 Geo. III. c. 14.

'WHEREAS the several laws in being for the preservation of the fish 'in rivers ponds pools motes stews and other waters are by experience found to be ineffectual to deter divers loose idle and disorderly 'persons from stealing taking away or destroying the fish therein bred 'and preserved;' May it therefore please your most excellent Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That in case any person or persons from and after the first day of *June* one thousand seven hundred and sixty-five shall enter into any park or paddock fenced in and inclosed or into any garden orchard or yard adjoining or belonging to any dwelling-house, in or through which park or paddock garden orchard or yard any river or stream of water shall run or be or wherein shall be any river stream pond pool moat stew or other water, and by any ways means or device whatsoever shall steal take kill or destroy any fish bred kept or preserved in any such river or stream pond pool moat stew or other water aforesaid without the consent of the owner or owners thereof; or shall be aiding or assisting in the stealing taking killing or destroying any such fish as

Persons convicted of stealing or destroying Fish, &c. are to be transported for Seven Years.

No. XXV.
5 Geo. III.
c. 14.

aforesaid; or shall receive or buy any such fish, knowing the same to be so stolen or taken as aforesaid; and being thereof indicted within six calendar months next after such offence or offences have been committed, before any judge or justices of gaol delivery for the county wherein such park or paddock garden orchard or yard shall be, and shall on such indictment be by verdict or his or their own confession or confessions convicted of any such offence or offences as aforesaid; the person or persons so convicted shall be transported for seven years.

Any Offender convicting his Accomplices entitled to Pardon.

II. 'And for the more easy and speedy apprehending and convicting 'of such person or persons as shall be guilty of any of the offences before 'mentioned,' Be it further enacted by the authority aforesaid, That in case any person or persons shall at any time after the said first day of *June* commit or be guilty of any such offence or offences as are hereinbefore mentioned and shall surrender himself to any one of his Majesty's justices of the peace in and for the county where such offence or offences shall have been committed; or being apprehended and taken or in custody for such offence or offences or on any other account and shall voluntarily make a full confession thereof and a true discovery upon oath of the person or persons who was or were his accomplice or accomplices in any of the said offences, so as such accomplice or accomplices may be apprehended and taken, and shall on the trial of such accomplice or accomplices give such evidence of such offence or offences as shall be sufficient to convict such accomplice or accomplices thereof, such person making such confession and discovery and giving such evidence as aforesaid, shall by virtue of this Act be pardoned acquitted and discharged of and from the offence or offences so by him confessed as aforesaid.

Persons convicted of taking or destroying, &c.

Forfeit to the Owner of the Fishery 5*l*. See *Dougl*. 499.

III. And be it further enacted by the authority aforesaid, That in case any person or persons shall after the said first day of *June* take kill or destroy or attempt to take kill or destroy any fish in any river or stream (1.) pond pool or other water (2.) (not being in any park or paddock, or in any garden orchard or yard adjoining or belonging to any dwelling-house, but shall be in any other inclosed ground which shall be private property) every such person being lawfully convicted thereof by the oath of one or more credible witness or witnesses, shall forfeit and pay for every such offence the sum of five pounds to the owner or owners of the fishery of such river or stream of water, or of such pond pool moat or other water; and it shall and may be lawful to and for any one or more of his Majesty's justices of the peace of the county division riding or place where such last-mentioned offence or offences shall be committed, upon complaint made to him or them upon oath against any person or persons for any such last-mentioned offence or offences, to issue his or their warrant or warrants to bring the person or persons so complained of before him or them; and if the person or persons so complained of shall be convicted of any of the said offences last-mentioned before such justice

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(1.) A stream of water running by the side of a piece of ground, which is inclosed on every side, except that on which it is bounded by the water, is not a stream in inclosed ground within the meaning of this Section, so as to subject a person fishing therein to the penalty inflicted by the Act. Lisle *v.* Brown, 1 Marsh, 127. S. C. 5 Taunt. 440. For the form of a Conviction on this Statute, see Rex. *v.* Edwards, 1 E. R. 278; Rex. *v.* Daman, 2 B. & A. 378.

(2.) Conviction quashed because the Complaint did not appear to be made by the Owner, or the fishing to be without his consent. Rex *v.* Corden. 4 Bur. 2279. In Rex *v.* Edwards, 1 East. 278. a Conviction for fishing in part of a River between A. in the County of W. and B. in the said County, was quashed for not showing that the place where the offence was committed was within the jurisdiction of the Magistrate. It was objected that the Conviction for fishing without the consent was not sufficient without saying "against the Consent," and that the want of consent could only be proved by the Owner himself. No opinion was given on these objections; and see Observations, 1 Chitty, 322.

In a Conviction founded upon this Section, it must be distinctly stated in the Information and in the Evidence that the proceeding was at the instance of the Owner of the Fishery; and, therefore, where it was merely stated in the memorandum of a Conviction that the proceeding was at the instance of such Owner, and where the Information, without containing any such allegation, concluded with a mere prayer of Judgment on behalf of such Owner, and the Evidence was wholly silent on the subject, the Conviction was held to be bad. Rex *v.* Daman, 2 B. and A. 378.

No. XXV.
5 Geo. III. c. 14.

or justices, or any other of his Majesty's justices of the same county division riding or place aforesaid, by the oath or oaths of one or more credible witness or witnesses, which oath such justice or justices are hereby authorised to administer, or by his or their own confession, then and in such case the party so convicted shall immediately after such conviction pay the said penalty of five pounds hereby before imposed for the offence or offences aforesaid, to such justice or justices before whom he shall be so convicted, for the use of such person or persons as the same is hereby appointed to be forfeited and paid unto; and in default thereof shall be committed by such justice or justices to the house of correction for any time not exceeding six months, unless the money forfeited shall be sooner paid.

IV. Provided nevertheless, That it shall and may be lawful to and for such owner or owners of the fishery of such river or stream of water, or of such pond pool or other water wherein any such offence or offences last mentioned shall be committed as aforesaid, to sue and prosecute for and to recover the said sum of five pounds by action of debt bill plaint or information in any of his Majesty's courts of record at *Westminster*; and in such action or suit no essoign wager of law or more than one imparlance shall be allowed; provided that such action or suit be brought or commenced within six calendar months next after such offence or offences shall have been committed.

V. Provided always and be it further enacted by the authority aforesaid, That nothing in this Act shall extend or be construed to extend to subject or make liable any person or persons to the penalties of this Act, who shall fish take or kill and carry away any fish in any river or stream of water pond pool or other water wherein such person or persons shall have a just right or claim to take kill or carry away any such fish. (3.)

(3.) A fishing in order to try Claim of Right is not within the Statute, although a Verdict had been obtained on a former Action against the Right of the Person under whom the Claim was made. Keinersley *v.* Orpe, Doug. 517.

[No. XXVI.] 11 George III. c. 27. A.D. 1771.—An Act for Regulating and Improving the Fisheries in the River *Tweed*, and the Rivers and Streams running into the same; and also within the Mouth or Entrance of the said River.

[No. XXVII.] 15 George III. c. 46. A. D. 1775.—An Act for amending and rendering more effectual an Act passed in the Eleventh Year of his present Majesty's Reign, intituled, 'An Act for regulating and improving the Fisheries in the River *Tweed*, and the Rivers and Streams running into the same, and also within the Mouth or Entrance of the said River.'

[No. XXVIII.] 18 George III. c. 33. A.D. 1777.—An Act for the better Preservation of Fish, and regulating the Fisheries, in the Rivers *Severn* and *Verniew*.

[No. XXIX.] 31 George III. c. 51. A.D. 1791.—An Act for better protecting the several Oyster Fisheries within this Kingdom.

31 Geo. III. c. 51. Preamble.

'WHEREAS the maintaining and preserving the several Oyster Fisheries of this kingdom is a great national object: And whereas

No. XXIX.
31 Geo. III. c. 51.

From Aug 1, 1791, Persons unlawfully catching Oysters or Brood within the Limits of any Fishery, punishable by Fine and Imprisonment.

'the laws now in being are not sufficient effectually to maintain and preserve the said Fisheries and to prevent the destroying of the Oyster Brood therein: In order therefore the better to protect the said Fisheries, and to prevent the destroying of the Oyster Brood within the same,' May it please your Majesty, that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That if any person or persons shall at any time from and after the first day of *August* one thousand seven hundred and ninety-one, with or by means of any net traul dredge or other instrument or engine whatsoever, take or catch any oysters or oyster brood within the limits of any oyster fishery of this kingdom, or shall dredge for oysters or oyster brood or use any oyster dredge or any net instrument or engine whatsoever within the limits of any such fishery for the purpose of taking or catching oysters or oyster brood, although no oysters or oyster brood shall be actually taken, or shall with any net instrument or engine drag upon the ground or soil of any such fishery, all and every such person and persons (other than and except such persons as shall be the owners lessees or occupiers of such fishery, or shall be otherwise lawfully entitled to take or catch oysters therein) shall be deemed and taken to be guilty of an offence and misdemeanor, and shall and may be prosecuted for the same by indictment at the assizes or general quarter sessions of the peace to be holden in and for the county riding or division in which such fishery shall lie, and the justices in sessions are hereby authorised and required to hear and determine all and every such offence and offences; and such person or persons being lawfully convicted by verdict or by his or their own confession, shall and may be punished for any of the said offences by fine and imprisonment or either of them as the court before whom such person or persons shall be so convicted shall think proper, such fine not to exceed twenty pounds or be less than forty shillings, and such imprisonment not to be for more than three months or less than one month.

Act not to extend to the taking floating Fish.

II. Provided always, That nothing in this Act shall extend or be construed to extend to prevent or hinder any person or persons whomsoever from taking catching or fishing for any floating fish in the waters or creeks within the limits of any oyster fishery, with any net instrument or engine which shall be made or fitted for the purpose of taking or catching floating fish only.

Justices may issue Warrants for apprehending Offenders, and, for want of Sureties, may commit them till the Quarter Sessions.

III. And be it further enacted, That it shall be lawful for any justice of the peace acting for any county riding or division wherein any offence shall be committed contrary to this Act, upon complaint and oath made before him (which oath he is hereby empowered to administer) that any person or persons except as aforesaid hath or have within thirty days next preceding such complaint, taken or caught any oysters or oyster brood within the limits of any oyster fishery, or dredged for oysters or oyster brood, or used any oyster dredge or any net instrument or engine within the limits of any such fishery for the purpose of taking or catching oysters or oyster brood, although no oysters or oyster brood shall be actually taken; or with any net instrument or engine dragged upon the ground or soil of any oyster fishery, to issue out a warrant or warrants under his hand and seal for the apprehending of the person or persons so offending, and for bringing him or them before himself or any other justice of the peace acting for such county riding or division; and the justice before whom such person or persons shall be brought shall and is hereby authorised and required if he see cause to commit him or them to the common gaol or other usual place of confinement for prisoners in and for such county riding or division, there to remain until the then next assizes or then next general quarter sessions of the peace to be holden in and for such county riding or division, whichever shall first happen next after such person or persons shall be so apprehended and brought before such justice, unless such person or persons shall enter into recognisance before such justice with two good and sufficient sureties (each and every of them in the penalty of twenty pounds) to appear either at the said next assizes

or general quarter sessions of the peace which shall first happen as aforesaid; then and there to answer any indictment or indictments that shall or may be preferred against him or them under or by virtue of this Act.

Persons found taking or using Engines for taking Oysters or Brood, refusing to discover themselves, may be seized, &c.

IV. And be it further enacted, That if any person or persons except as aforesaid shall be found actually taking or catching any oysters or oyster brood within the limits of any oyster fishery, or dredging for oysters or oyster brood, or using any oyster dredge or any net instrument or engine whatsoever within the limits of any oyster fishery, for the purpose of taking or catching oysters or oyster brood, although no oysters or oyster brood shall be actually taken, or with any net instrument or engine dragging upon the ground or soil of any such oyster fishery, it shall be lawful for any person being an owner lessee or occupier of such fishery, or otherwise lawfully entitled to take or catch oysters therein, and for his apprentice or servant (in case the person or persons offending against this Act shall on being required so to do refuse to discover his or their real name or names and the true place or places of his or their abode or residence respectively) to seize secure and detain every such person so being found actually taking or catching any oysters or oyster brood, or dredging for oysters, or using any oyster dredge or any net instrument or engine for the purpose aforesaid, although no oysters or oyster brood shall have been actually taken, or with any net instrument or engine dragging upon the ground or soil of such oyster fishery, and refusing to discover his real name and true place of abode, and forthwith to carry him and them before any justice of the peace acting for such county riding or division; and the said justice on oath being made before him (which oath he is hereby empowered to administer (of the offence against this Act, for which such person or persons was or were seized or secured and detained, shall and is hereby authorised and required to proceed against him and them in such and the same manner as if he or they had been apprehended and brought before such justice by virtue of a warrant or warrants issued for that purpose under the authority of this Act.

No Justice to commit, or require Security from any Persons, without Recognizance is entered into to prosecute.

V. Provided always, and be it further enacted, That no justice of the peace shall by virtue of this Act commit any person or persons or take or require any security from him or them for his or their appearance as aforesaid, unless one good and sufficient householder being an owner lessee or occupier of or otherwise lawfully entitled to take or catch oysters in the oyster fishery wherein the offence shall be sworn to have been committed (whose oath that he is such owner lessee or occupier or otherwise lawfully entitled as aforesaid shall be sufficient evidence thereof to such justice), shall enter into recognisance before the said justice in the penalty of twenty pounds for his appearing either at the then next assizes or general quarter sessions of the peace for the county riding or division, as the case may be, and then and there preferring and prosecuting with effect a bill of indictment against the person or persons so to be committed or bound by recognisance for the offence or offences for which he or they shall be so committed or bound as aforesaid.

Persons may be discharged from Confinement upon Recognisance.

VI. And be it further enacted, That if at any time after any person or persons shall have been committed in pursuance of this Act two good and sufficient sureties shall before the justice by whom such person or persons was or were committed, or any other justice of the peace for the same county riding or division, enter into recognisance in the penalty of twenty pounds each, with condition for the appearance of such person or persons so committed at the then next assizes or general quarter sessions of the peace for the same county riding or division which shall first happen, then and there to answer to any indictment or indictments that shall or may be preferred against him or them by virtue of this Act; then and in such case it shall be lawful for any such justice by warrant under his hand and seal to order such person or persons to be discharged from his or their said commitment and delivered out of custody, and he and they shall be discharged accordingly; any thing herein contained to the contrary thereof in anywise notwithstanding.

No. XXIX. 31 Geo. III. c. 51.

This Act not to affect any Act now in force respecting any particular Oyster Fishery,

VII. Provided always, That nothing herein contained shall extend or be construed to extend to repeal alter abridge or affect any Act of Parliament now in force respecting any particular oyster fishery within this kingdom, or any clause regulation method of proceeding power matter or thing therein; but that all and every the powers authorities jurisdictions and directions contained in all such Acts of Parliament shall and may be pursued enforced exercised and executed in such manner and form and as fully to all intents and purposes as if this Act had not been made.

or to preclude Prosecution at the Common Law.

VIII. Provided also, That nothing herein contained shall extend or be construed to extend to prevent bar or preclude any person from commencing any prosecution or action at the common law for any Act or offence herein-before described, which shall be done or committed within the limits of any oyster fishery, in such manner and form as if this Act had not been made; but nevertheless when any person shall have been punished in pursuance and by virtue of this Act for any offence against the same, such person shall not be prosecuted by virtue of any other law or statute or be liable to any other punishment or penalty for the same offence, or to have any other action or suit in law or equity brought against him on account of that offence for which he shall have been punished in pursuance of this Act.

Limitation of Actions.

IX. And be it further enacted, That no action at law shall be brought or commenced against any person or persons for any arrest authorised to be made, or any other matter or thing done or to be done by virtue of this Act, until after twenty-one days notice thereof in writing shall have been given to the person or persons against whom such action is intended to be brought or left at his or their last usual place or places of abode, setting forth the cause of such action; and that every such action shall be brought within the space of six calendar months next after the cause of complaint shall arise, and shall be laid and tried in the proper county wherein the same did arise, and not elsewhere; and the defendant or defendants in such action may plead the general issue, and on the trial thereof give this Act and the special matter in evidence; and if on the trial of such action it shall appear that the same was commenced without having given such notice, or before the expiration of twenty-one days next after such notice shall have been so given or left as aforesaid, or after the end of six calendar months next after the cause thereof shall have arisen, or if such action shall be brought or laid in any other county than as aforesaid, or after sufficient tender of amends shall have been made to the party or parties aggrieved, that then and in any of the cases aforesaid a verdict shall be entered as found for the defendant or defendants; and in all cases where a verdict shall be found or entered for the defendant or defendants in any such action, or if the plaintiff or plaintiffs shall discontinue the same after appearance or shall be nonsuited, or if upon demurrer judgment shall be given against the plaintiff or plaintiffs the defendant or defendants in such action shall have double costs, and the like remedies for recovering the same as defendants have by law for recovering their costs in other cases.

General Issue.

Double Costs.

Public Act.

X. And be it further enacted, That this Act shall be deemed and taken to be a public Act; and shall be judicially taken notice of as such by all judges justices and other persons without specially pleading the same.

[No. XXX.] 36 Geo. III. c. 118. A.D. 1796.—An Act to authorize the Sale of Fish at *Billingsgate* by Retail.

[No. XXXI.] 37 George III. c. 48. A. D. 1797.—An Act for altering, amending, and rendering more effec-

tual two Acts, made in the Eleventh and Fifteenth Years of the Reign of his present Majesty, for the Regulation and Improvement of the Fisheries in the River *Tweed*, and the Rivers and Streams running into the same, and also within the Mouth or Entrance of the said River.

No. XXXI. 37 Geo. III. c. 48.

[No. XXXII.] 37 Geo. III. c. 95.—An Act to amend two Acts, made in the Fourth Year of the Reign of Queen *Anne*, and the First Year of the Reign of King *George* the First, for the Preservation of Salmon and other Fish, in the Rivers within the Counties of *Southampton* and *Wilts*.

[No. XXXIII.] 42 George III. c. 88.—An Act for repealing so much of an Act made in the Second Year of the Reign of his present Majesty, intituled, 'An Act for 'the better supplying the Cities of *London* and *West-'minster* with Fish, and to reduce the present exorbitant 'Price thereof, and to protect and encourage Fisher-'men,' as limits the Number of Fish to be sold by Wholesale within the said City of *London*; and for the better Regulation of the Sale of Fish by Wholesale in the Market of *Billingsgate* within the said City.

[No. XXXIV.] 43 Geo. III. c. 61.—An Act to alter and amend two Acts, passed in the Thirteenth Year of the Reign of King *Edward* the First, and in the Thirteenth Year of the Reign of King *Richard* the Second, for the Preservation of Salmon and other Fish in the Rivers *Teign*, *Dart* and *Plym*, in the County of *Devon*.

[No. XXXV.] 45 Geo. III. c. 33.—An Act for the Preservation of Salmon and other Fish in the Rivers in the County of *Carmarthen*, and County of the Borough of *Carmarthen*.

[No. XXXVI.] 46 Geo. III. c. 19. A. D. 1806.—An Act for the Regulation of the Oyster, Sole, and Salmon Fisheries, within the Harbour of *Milford*, in the County of *Pembroke*, and the Rivers running into the said Harbour.

[No. XXXVII.] 47 Geo. III. Sess. 1. c. 29. A. D. 1807.—An Act to amend and render more effectual three Acts, made in the Eleventh, Fifteenth and Thirty-seventh Years of his present Majesty, for the Regulation and Improvement of the Fisheries of the River *Tweed*.

No. XXXVIII. 48 Geo. III. c. 144.

48 George III. c. 144. 31 Geo. 3. c. 51.

[No. XXXVIII.] 48 Geo. III. c. 144. A. D. 1808.—An Act for the more effectual Protection of Oyster Fisheries and the Brood of Oysters in *England*.

'WHEREAS an Act of Parliament passed in the thirty-first year of 'the reign of his present Majesty, intituled "An Act for better 'protecting the several oyster fisheries within this Kingdom:" and 'whereas the provisions of the said Act have been found inadequate to 'the protection of the oyster fisheries of this kingdom: and whereas 'doubts have arisen since the passing of the said Act whether the taking 'oysters or oyster brood from any oyster bed or laying or from any 'oyster fishery can under any circumstances be deemed felony and 'punishable as such: and it is therefore expedient and necessary that 'more effectual provision should be made for the protection of the oyster 'fisheries and for removing such doubts as aforesaid: May it therefore 'please your Majesty that it may be declared and enacted;' and be it declared and enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That every person who shall at any time after the first day of *August* one thousand eight hundred and eight knowingly and wilfully steal take and carry away any oysters or oyster brood from any oyster bed or oyster laying or oyster fishery, being the property of any person or persons or body or bodies politick or corporate and sufficiently marked out as such, shall be deemed guilty of felony and shall and may be transported for any term not exceeding seven years, or be imprisoned and kept to hard labour in any common gaol or house of correction or penitentiary house, or imprisoned only for any term not exceeding three years, as the court before whom any such person shall be convicted may adjudge.

Penalty on Persons stealing Oysters or Oyster Brood from Oyster Beds, Felony, punishable by Transportation, &c.

II Provided always and be it further enacted, That nothing in this Act contained shall extend or be construed to extend to subject or make liable any person or persons to the penalties of this Act who shall take or carry away any oyster or oyster brood from any oyster bed oyster laying or oyster fishery wherein such person or persons shall have or claim to have a right to take and carry away such oysters or oyster brood.

Proviso for Persons claiming Right.

III. 'And whereas doubts may arise in what parish or county any 'oyster beds layings or fisheries are situated, and on that account diffi-'culties may occur in bringing offenders to justice,' Be it therefore further enacted, That it shall be sufficient in any indictment under this Act, or under the said recited Act of the thirty-first year aforesaid, to describe either by name or otherwise the bed laying fishery in which the offence shall have been committed, without stating the same to be in any particular parish; and where the offence is committed on the border of any county so as to make it difficult to ascertain the county, such offence may be stated to have been committed in the county in which the indictment shall be preferred, being either the county in which the offence was committed or the adjoining county.

Parish need not be named in Indictments, and Offence may be laid in the County where Indictment is preferred.

IV. 'And whereas it is doubtful whether justices of the peace for 'towns corporate boroughs or other places *and* not being counties of 'themselves and having special or exclusive jurisdictions, can act by 'virtue of the statute of the thirty-first year aforesaid;' Be it therefore enacted and declared, That it shall be lawful for such justices to act in all cases arising within their respective jurisdictions in like manner as any justice of the peace for any county riding or division may act for such county riding or division in the execution of the said Act or of any law for protecting the oyster fisheries and broods of oysters.

Justices for Towns, &c. may act as Justices for Counties.

V. And be it further enacted, That nothing herein contained shall extend or be construed to extend to repeal any of the provisions of the said Act of the thirty-first year aforesaid, except so far as the same respect the stealing and taking of oysters from any oyster bed laying or fishery.

Provisions of 31 *Geo.* 3. *c.* 51. not repealed by this Act.

No. XXXIX. 58 Geo. III. c. 43.

[XXXIX.] 58 Geo. III. c. 43.—An Act for preventing the Destruction of the Breed of Salmon, and Fish of Salmon Kind, in the Rivers of *England*.—[28*th May* 1818.]

58 Geo. 3. c. 43.

WHEREAS provision has been made in various Acts of Parliament for preventing the destruction of salmon and other fish of the salmon kind in the several rivers in *England* named therein, and in estuaries and arms of the sea near the mouths of the said rivers; and it would be of great public advantage if such protection should be afforded generally in all rivers throughout *England*: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act it shall be lawful for the justices of the peace assembled at any general or quarter sessions of the peace, from time to time to appoint conservators or overseers for the preservation of the salmon and fish of the salmon kind and the brood spawn and fry thereof and preventing the destruction thereof, and enforcing for that purpose the provisions of this Act within the limits of the jurisdiction of such justices and within the limits of which they shall be so appointed.

Justices at Sessions to appoint Conservators of Rivers;

II. And be it further enacted, That were no provision is made by any Act now in force for limiting the times within which it shall be lawful to take salmon or fish of the salmon kind in any of the rivers in *England*, it shall be lawful for the justices of the peace acting for the several counties at their several quarter sessions of the peace, and they are hereby required at the request of any person, such person having first given notice in some newspaper usually circulated within the county, of his intention to apply to the said quarter sessions in that behalf to fix certain days, not exceeding one hundred and fifty days in each year for each river within their respective counties, to be fence days for the several rivers respectively; during which time it shall not be lawful for any person or persons whatever to take kill or destroy or attempt to take kill or destroy any salmon or salmon trout or fish of the salmon kind, or any brood spawn or fry of such fish; and the said justices are hereby further empowered at any general quarter sessions to vary annually the number of such days and the periods at which they shall commence as they shall think fit.

and to fix Periods in which Salmon shall not be taken, &c.

III. And be it enacted, That if any person or persons shall at any time hereafter pursue take kill or destroy or seek or endeavour to take kill or destroy pursue hurt or injure any salmon or salmon kind, by laying or using any hot lime or filth or material or drug pernicious to fish, or using any water in which any green lint or flax has been steeped, or letting off stagnated water or any water impregnated with any material or drug pernicious to fish; or if any person shall use or employ any such means as aforesaid or use any fire or light or white object or lay down any kind of net engine or device or wilfully do or commit or cause to be done or committed any act whatsoever in any river water rivulet stream mill dam mill sluice cut pool or pond communicating therewith, for the destruction of the brood spawn or small fry of salmon therein (angling excepted;) or if any person shall hereafter make erect or set any bank dam hedge or stank net or nets or place any fire or fires light or lights or any white object or objects so that the young fry or young salmon be prevented from going down from such rivers rivulets or other waters communicating therewith as aforesaid or any of them every such person so offending shall for every such first offence forfeit and pay any sum not exceeding ten pounds nor less than five pounds, and for every second and subsequent offence any sum not exceeding fifteen pounds nor less than ten pounds, at the discretion of the justice or justices before whom the offender or offenders shall be convicted, and shall also forfeit all the fish spawn brood or fry so taken, and all the nets weapons lines instruments boats devices or things used in the taking thereof.

Penalty on Persons destroying Salmon, or the Brood, Spawn, or Fry thereof.

No. XXXIX. 58 Geo. III. c. 43.

Penalty on Persons having in Possession Spawn, Fry, or Brood of Fish, or unsizeable Fish.

IV. And be it further enacted, That no person shall at any time after the first day of *September* one thousand eight hundred and eighteen take kill or destroy or knowingly have in his or her possession, either on the water or on the shore, or shall bring to shore or cry or carry about sell offer or expose to or for sale, or shall exchange for any goods matter or thing any spawn fry or brood of fish or any unsizeable fish, or any kepper or shedder salmon being unseasonable salmon commonly called *old salmon*, or any salmon caught in any river during the periods when fishing for salmon is prohibited under the provisions of any law now in force, or when the same shall be prohibited by any order to be made by the justices at their sessions as herein-before provided; and it shall be lawful for any conservator or overseer thereof, or any other person under the authority of this Act, to take and seize all or any such spawn fry or brood of fish or such other fish as aforesaid wherever the same shall be found, together with all baskets and package in which the same shall be so found or taken, and to deliver the person on whom the same may be found to a constable or other peace officer; and after every such seizure shall be made the spawn fry or brood or other fish as aforesaid, together with the baskets and package in which the same shall be so seized, shall be delivered into the hands of some constable or other peace officer; and every such constable or other peace officer is hereby authorised and required to take every such offender with whom he shall be so charged for any such offence into his custody, and also the spawn fry or brood of fish and such other fish as aforesaid, and all baskets and packages in which the same shall be so seized, and which shall be delivered to such constable or other peace officer as aforesaid, and to carry such offender and all such spawn fry or brood of fish and such other fish as aforesaid, together with the baskets and package as aforesaid, which shall have been delivered to any such constable or other peace officer with all convenient speed before some justice or justices or magistrate of the county city or place where the offence shall be committed, for such offender to be dealt with according to law; and on the conviction of any such offender or offenders for any such offence before any such justice or justices or magistrate as aforesaid, every such offender shall forfeit all and every such spawn fry or brood of fish unsizeable fish and fish out of season which shall be so seized, together with all baskets or package in which the same shall be so seized; and all such spawn fry or brood of fish or such other fish as aforesaid, together with such baskets and package in which the same shall have been so seized as aforesaid, shall by order of the justice or justices before whom the same shall be so brought, be delivered to the person or persons who shall have so seized the same and shall prosecute to conviction any such offender; and every offender who shall be so convicted as aforesaid of any such offence shall besides forfeit and pay for every such offence any sum not exceeding ten pounds nor less than five pounds.

Act not to affect the present Modes of Fishing.

V. Provided also and be it further enacted, That nothing herein contained shall extend or be deemed or construed to legalise, nor to demolish take away or destroy any net fish lock coop bay or other work which shall have been or may hereafter be lawfully erected put placed fixed or used in any such arm of the sea or estuary or mouth of any river, or in or upon any bank sand or shore thereof or near thereto, or in or near any river rivulet brook stream pond pool or other water mill-lead mill-dam sluice or cut which runs into or otherwise communicates therewith, or to the present modes or methods used for taking and killing fish therein other than and as are in this Act particularly prohibited.

Recovery of Penalties.

VI. And be it further enacted, That every the pecuniary and other penalties and forfeitures by this Act imposed may be sued for recovered and adjudged, and every offence against this Act heard and determined by and before any one or more justice or justices of the peace or magistrate for the county shire division city or place wherein any offender against this Act shall be or reside, or wherein or near to which the offence or offences shall be committed by and upon the oath or affirmation of one or more credible witness or witnesses or by the confession of the party or

parties; which oath or oaths affirmation or affirmations every such justice of the peace and other magistrates aforesaid are hereby authorized empowered and required to administer accordingly; and in case any person who shall be convicted of any offence or offences against this Act, and shall not immediately upon such conviction pay down the penalty or penalties together with such costs of suit or prosecution in which he she or they shall have been so convicted or ordered to pay as aforesaid into the hands of the justice or justices of the peace or magistrate as aforesaid, by and before whom he or she shall have been so convicted, or other person by them or any of them authorised to receive the same, in order that the same may be disposed of and distributed according to the directions of this Act, it shall be lawful for any such justice or justices of the peace or magistrate aforesaid to order any constable or other peace officer to take the charge of and keep in custody any such person so convicted; and immediately thereupon every such justice or justices of the peace or magistrate is hereby authorised empowered and required to grant his or their warrant or warrants in due form of law under his or their hand and seal or hands and seals, and thereby commit every such offender to the common gaol or house of correction for the county shire division city or place for which such justice or justices or magistrates aforesaid shall act, for such time or times hereinafter mentioned, unless the said penalty or penalties and costs shall respectively be sooner paid; or otherwise such justice or justices of the peace or magistrate shall and may grant his or their warrant or warrants in due form of law under his or their hand and seal or hands and seals to levy and recover the said penalty and penalties and costs by distress and sale of the offender's goods and chattels; and that all penalties and forfeitures which shall be so paid or levied as aforesaid, shall from time to time be paid applied and disposed of as follows; (that is to say) one moiety thereof to the informer or informers, and the other moiety, after defraying all costs charges and expences attending the prosecution and the levying and recovering of the penalty, to the overseers of the poor of the parish or place where the offence or offences shall have been committed; and the overplus of the money levied remaining (if any there be), after any penalty or penalties and all costs charges and expences attending the levying and recovering thereof are deducted, (which costs charges and expences shall always be taxed settled and ascertained by and before the justice or justices of the peace or magistrate as by or before whom any such offender shall be convicted), shall on demand be returned to the owner or owners of the goods and chattels so distrained; and in case sufficient distress or distresses shall not be found, or such penalty or penalties and costs shall not be immediately paid, that then it shall be lawful for any such justice or justices of the peace or magistrate, and he and they is and are hereby respectively authorised empowered and required for the first offence to commit every such offender or offenders to such gaol or house of correction as aforesaid for any time not exceeding four months nor less than two months, for the second offence any time not exceeding eight months nor less than six months, and for the third and every other offence for any time not exceeding twelve months nor less than eight months, there to be kept at hard labour and be and remain without bail or mainprize.

Justices, on receiving Information, may grant Warrants for apprehending Offenders.

VII. And be it further enacted, That it shall and may be lawful for any justice or justices of the peace or magistrate or any of them and they are hereby required, upon information being made to him or them upon oath against any person or persons who shall or may offend against any thing contained in this Act, to grant his or their warrant or warrants under his or their hand and seal or hands and seals, to apprehend any person or persons so offending, and cause such offender or offenders to be brought before him or them or some other such justice or other magistrate; or it shall and may be lawful to and for any such justice or justices or other magistrates as aforesaid, upon any information made without oath, to grant his or their summons or summonses against the party charged with any such offence or offences, or for any witness or witnesses to prove any such offence or offences as aforesaid; and if any such person

No. XXXIX. 58 Geo. III. c. 43.

or persons who shall be duly summoned shall neglect or refuse to appear at the time and place appointed by such summons or summonses, every such justice or justices of the peace or magistrate shall and may upon oath being made of the person or persons being so duly summoned, grant his or their warrant or warrants under his or their hand and seal or hands and seals, to apprehend and bring before him and them or some other such justice or magistrate as aforesaid, the party or parties who shall neglect or refuse to appear after being duly summoned as aforesaid; and such justice or justices or other magistrates aforesaid shall inquire into hear and determine the matter of every such offence or offences in a summary way.

Owners, &c. of Fisheries may be Witnesses to prove Offences.

VIII. And be it further enacted, That no owner farmer or occupier of, or any person otherwise interested in any fishery or right of fishing in any arm of the sea river or other water aforesaid, shall be deemed an incompetent witness to prove any offence or offences done or committed against this Act, by reason of his or her being such owner farmer or occupier.

Penalties may be sued for.

IX. And be it further enacted, That every pecuniary penalty and forfeiture imposed by this Act may be recovered in a summary manner according to the provisions of this Act, or may be sued for and recovered together with full costs of suit by and to the only proper use and behoof of any person who shall inform or sue for the same in any of his Majesty's courts of record at *Westminster*, by action of debt bill plaint or information, wherein no essoign wager of law nor more than one imparlance shall be allowed.

Form of Conviction.

X. And be it further enacted, That every conviction of every offender against this Act shall be certified by the justice or justices of the peace by and before whom the same shall be made to the general quarter sessions of the peace to be held in and for the county riding division city or place where the offender or offenders shall be convicted, and shall there be filed amongst the records of the said sessions; and every conviction shall be in the form of words or to the following effect:

'BE it Remembered, That on the day of
'in the year *A. B.* was, upon the
'complaint of *C. D.* convicted before me [*or*, us] *E. F.* one [*or*, two] of
'his Majesty's Justices of the Peace [*as the case may be*] for
'in pursuance of an Act made in the fifty-eighth year of the reign of
'his Majesty King *George* the Third, [*insert the Title of the Act*] for that
'the said [*state the offence*] [*and if a case in which*
'*different penalties are imposed for different offences*] this being the first
'offence second *or*, third offence [*as the case may be*] and I [*or*, we] do
'hereby adjudge him [her *or*, them] to pay and forfeit for the said offence
'the sum of of lawful money of *Great*
'*Britain*, together with the farther sum of for costs
'of suit and prosecution, to the said *C. D.* Given under my hand and
'seal, [*or*, our hands and seals, *as the case may be*] at
'in the county of the day and year above written.'

Which said conviction and adjudication shall be good and valid in law to all intents and purposes, and shall not be quashed set aside or adjudged void or insufficient for want of form only; and shall not be liable to be removed by *certiorari* or otherwise into his Majesty's Court of King's Bench or any other of his Majesty's courts of record at *Westminster*, but shall be deemed and taken to be final to all intents and purposes whatsoever.

Persons convicted under this Act, not to be prosecuted under any other.

XI. And be it further enacted, That where any offender shall be punished for any offence by virtue of this Act such offender shall not again be prosecuted nor incur any penalty by virtue of any other law or statute now in force or be liable to any other punishment for the same offence.

Appeal.

XII. And be it further enacted, That every person who shall think himself or herself aggrieved by the judgment of any justice of the peace or magistrates in any of the cases aforesaid may appeal to the justices of the peace for the county shire division city or place where such judgment

shall be given at the then next or next but one general quarter sessions of the peace; but that no such appeal shall be received heard or determined, unless the appellant or appellants shall within ten days next after such judgment and twenty days at the least before the holding of such sessions give and leave in writing as well at the public office of the clerk of the peace for such county shire division city or place where such person or persons shall be convicted, as to the person, or at the dwelling house of the informer or prosecutor, of his her or their intention to bring such appeal, and shall also enter into a recognisance before such justice or justices in such sum as any such justice or justices of the peace shall think fit, not exceeding twenty pounds, conditioned to try such appeal and likewise to pay the costs of such appeal in case judgment and sentence shall upon the hearing thereof be given against the appellant within ten days next after the determination thereof; and that the said justices at their said session shall and may, upon due proof of such notice given as aforesaid, hear and determine every such appeal in a summary way and shall award or order to the party in whose behalf such appeal shall be determined such costs and charges as they in their discretion shall think reasonable and just to be paid by the party or parties against whom such appeal shall be determined; and in case such costs and charges shall not be paid within the space of ten days next after the hearing and determining of such appeal, the same may be levied by distress and sale of the goods and chattels of the person or persons ordered to pay the same, or his or their surety or sureties in the same manner and by the same means as all distresses are ordered to be taken under or by virtue of this Act.

Limitation of Actions.

XIII. And be it further enacted, That no action of law shall be brought or commenced against any person or persons for any thing done or to be done by virtue or in execution of this Act, until one calendar month after notice thereof in writing shall have been given to the person or persons against whom such action shall be intended to be brought, or left at his her or their last or usual place or places of abode, setting forth the cause of such action and containing the name and place of abode of the plaintiff or plaintiffs and also of his or their attorney; and that every action brought for any thing done or to be done as aforesaid shall be brought within the space of three calendar months next after the cause of action or complaint shall arise, and shall be laid and sued in the county shire division city or place where the fact shall have been committed and not elsewhere; and the defendant or defendants therein may plead the general issue and give this Act and the special matter in evidence at any trial to be had thereupon and that the same was done by virtue thereof; and also that it shall and may be lawful to and for such person or persons at any time before action brought to tender amends to the party complaining or his or her agent or attorney, and in case the same is not accepted to plead such tender in bar to the action together with the plea of not guilty and any other plea with the leave of the court; and if on the trial of such action it shall appear that the same was brought before the expiration of one calendar month next after such notice shall have been so given or left as aforesaid or after the end of three months next after the cause thereof shall have arisen, or if such action shall have been brought or laid in any other county or place than as aforesaid, or after sufficient tender of amends shall have been made to the party or parties aggrieved, that then and in any of the cases aforesaid the jury shall find a verdict for and acquit the defendant or defendants in such action; or if the plaintiff or plaintiffs shall discontinue the same after the defendant or defendants shall have appeared or shall be nonsuited, and if upon demurrer judgment shall be given against the plaintiff or plaintiffs the defendant or defendants in such action shall have double costs and have the like remedies for recovering the same as defendants have for recovering their costs in other cases at law; and that no action suit information or other proceeding whatsoever shall be brought or commenced against any person or persons for any offence or offences against this Act, unless the same shall be laid or commenced within six calendar months next after any such offence or offences shall have been committed.

No. XXXIX. 58 Geo. III. c. 43.

XIV. Provided always and be it further enacted, That nothing in this Act contained shall extend or be construed to extend or alter any Act or Acts of Parliament or any clause provision regulation or penalty or forfeiture contained in any Act or Acts of Parliament in force for the regulation of any fishery or fisheries or the preservation thereof, or of the brood spawn or fry of fish in any particular county or arm of the sea estuary or river.

Not to affect the Provisions of any Act; nor the Rights of Manors.

XV. Provided always and be it further enacted, That nothing herein contained shall extend to affect the rights of any lord or lords lady or ladies of any manor; and it shall be lawful for such lord or lords lady or ladies and they are hereby required to appoint conservators for the protection of any river or rivers within their respective manors.

Not to affect the Rights of Corporations;

XVI. Provided also and it is hereby enacted, That nothing in this Act contained shall extend or be construed to extend to prejudice or derogate from the rights interests privileges franchises or authority of any body or bodies politick corporate or collegiate or their successors, or to prohibit defeat alter or diminish any power authority or jurisdiction which such body or bodies politick corporate or collegiate at the time of the passing of this Act did or might lawfully claim use or exercise in any river or rivers as aforesaid,

or of the City of London.

XVII. Provided also and it is hereby enacted and declared, That nothing in this Act contained shall extend or be construed to extend to prejudice or derogate from the rights interests privileges franchises or authority of the mayor and commonalty and citizens of the city of *London* or their successors, or the Lord Mayor of the said city for the time being, or to prohibit defeat alter or diminish any power authority or jurisdiction which at the time of making this Act the mayor and commonalty and citizens of the city of *London* or the Lord Mayor of the said city for the time being as conservator of the river *Thames* and waters of *Medway* did or might lawfully claim use or exercise.

PART VI.

CLASS XVII.

*Forcible Entry.**

* It has been thought most convenient to introduce this Subject in the present Division, although some of the Statutes have not any immediate Relation to the Functions of a Justice of Peace. For the general Exposition of the Law relating to it, see 1 Hawk. P. L. c. 64.—It is agreed, that an Indictment for a forcible Entry may be maintained at common Law; but an Indictment, stating that the Defendants, with Force and Arms, unlawfully broke and entered a Close, and unlawfully and unjustly expelled the Prosecutors, and kept them out of Possession, was held to be not sufficiently descriptive of the force requisite to constitute such Offence. It ought to amount to an actual Breach of the Peace; and this ought to appear on the face of the Indictment. Rex *v.* Bake and others, 3 Bur. 1731.—It is stated by Hawkins, that at common Law a Man disseised of Lands (if he could not prevail by fair means) might lawfully regain the Possession by force.—In Rex *v.* Wilson and others, 8 T. R. 357. the Indictment stated that the Defendants, vi et armis, *unlawfully*, injuriously, and *with a strong Hand*, entered a Mill; and unlawfully, injuriously, and with a strong Hand, expelled A. B. &c. There were other Counts omitting the expression, *with a strong Hand*, which were abandoned as untenable. The Count containing those Words was held sufficient to denote the degree of force requisite to support the Indictment: and, on a subsequent day, Lord Kenyon, referring to the Observations in Hawkins above cited, said, "Perhaps some doubt may hereafter arise respecting that doctrine; but without giving any opinion concerning it, we may on the other: but leaving it to be proved or disproved whenever the question shall arise, all that we wish to say is, that our opinion upon this case leaves that question untouched; it appearing that the Defendants *unlawfully* entered, and therefore the Court cannot intend that they had any Title." It is manifest that the word 'unlawfully' is very often thrown into Indictments as a word of course; and, in general, the insertion of that word will not supply the want of any essential averment requisite to constitute an Offence. In the particular case, the question whether the insertion of the word *unlawfully* was equivalent to an averment negativing a right of Entry was not argued at the Bar. A distinction is made with respect to an Entry into a Dwelling-house, in which case the words, *with a strong Hand*, are not necessary. See Rex *v.* Bathurt, Sayer. 225; cited 3 Bur. 1699, 1702. See also the other cases cited in Rex *v.* Wilson.—There is a Form of an Indictment in Cro. Circ. Comp., which, according to the Cases, is not sufficient, except in the instance of a Dwelling-house.

[No. I.] 5 Richard II. Stat. 1. c. 7.—Manumissions, Releases, and other Bonds made in the last Tumult by Compulsion, shall be void. It shall be Treason to begin a Riot, Rout, or Rumour.*

* I have thought it eligible to insert this Chap. and also Chap. 9, as shewing the circumstances under which Chap. 8 was enacted.

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5 Richard II. Stat. 1. c. 8.—The Penalty where any doth enter into Lands where it is not lawful or with Force.

'AND also the King defendeth, That none from henceforth make any 'entry into any lands and tenements, but in case where entry is 'given by the law; and in such case not with strong hand nor with mul- 'titude of people, but only in peaceable and easy manner. And if any

5 Richard II. st. 1. c. 8. Godbolt 145. pl. 180.

Carthew 497. Regist. 182. *Enforced and amended by* 15 R. 2. c. 2. 4 H. 4. c. 8. 8 H. 6. c. 9. *which is explained by* 31 Eliz. c. 11. 10 H. 7. f. 27. 11 H. 7. f. 15. *See farther* 23 *H.* 8. c. 14. 21 *Jac.* 1. c. 15. *whereby Justices are enabled to give Restitution in certain Cases.*

No. I.
5 Rich. II. st. 1. c. 8.

Enforced by 6 R. 2. *stat.* 1. *c.* 4.

'man from henceforth do to the contrary and thereof be duly convict, 'he shall be punished by imprisonment of his body and thereof ran-'somed at the King's will.'

5 Richard II. Stat. 1. c. 9.—A Remedy for them whose Writings were destroyed in the late Insurrection.

[No. II.] 15 Richard II. c. 2.—The Duty of Justices of Peace when any forcible Entry is made into Lands.

15 Richard II. c. 2.

Former Statutes concerning forcible Entries and Riots confirmed.

Kel. 41. 3 Bulst. 71. Mod. Cases in Law, 65.

'ITEM, It is accorded and assented, That the ordinances and statutes 'made and not repealed of them that make entries with strong hand 'into lands and tenements or other possessions whatsoever; and them 'hold with force, and also of those that make insurrections or great 'ridings riots routs or assemblies in disturbance of the peace or of the 'common law or in affray of the people shall be holden and kept and 'fully executed; joined to the same, That at all times that such forcible 'entry shall be made, and complaint thereof cometh to the justices of 'peace or to any of them, that the same justices or justice take sufficient 'power of the county and go to the place where such force is made; and 'if they find any that hold such place forcibly after such entry made 'they shall be taken and put in the next gaol, there to abide convict by 'the record of the same justices or justice until they have made fine and 'ransom to the King: And that all the people of the county as well the 'sheriffs as other shall be attendant upon the same justices to go and 'assist the same justices to arrest such offenders upon pain of impri-'sonment and to make fine to the King. And in the same manner it 'shall be done of them that make such forcible entries in benefices or 'offices of holy church.'

5 R. 2. stat. 1. c. 8. *Enforced and amended by* 4 *H.* 4. *c.* 8. 8 *H.* 6. *c.* 9. 23 *H.* 8. c. 14.

See 31 *Eliz. c.* 11. *which explains* 8 *H.* 6. *c.* 9. *See* 21 Jac. 1. *c.* 15. *which enables Justices to give Restitution in certain Cases.*

[No. III.] 8 Henry VI. c. 9.—The Duty of Justices of Peace where Land is entered upon or detained with Force.

8 Henry VI. c. 9.

The Statute of 15 R. 2. c. 2. touching forcible Entries rehearsed and confirmed, 4 Co. 48. Hob. 94. Keilw. 207, 208.

"ITEM, Whereas by the noble King RICHARD late King of *England*, "after the Conquest the Second, at his Parliament holden at *West-"minster* the Morrow after *All Souls*, the fifteenth year of his reign, "amongst other things it was ordained and established, That the statutes "and ordinances made and not repealed of them that make entries with "strong hand into lands or tenements or other possessions whatsoever "and them hold with force, and of them that make insurrections riots "routs ridings and assemblies in disturbance of the peace or of the com-"mon law or in affray of the people should be holden and fully executed: "And moreover it is ordained by the same statute, That at all times "that such forcible entries be made and complaint thereof come to the "justices of peace or any of them, that the same justices or justice shall "take the power of the county and shall go or one of them shall go to "the place where such force is made; and if they find or he findeth any "holding such place forcibly after such entry made, they should be taken "and put in the next gaol, there to remain convict by the record of the "same justices or justice until they have made fine and ransom to the "King; and that all the people of the county as well sheriffs as other "shall be attending to the said justices, and to assist them to arrest such "malefactors upon pain of imprisonment, and to make fine and ransom "to the King. And that in the same manner be done of them that make "forcible entries into benefices or offices of holy church, as in the same "statute is contained more at large.

The Defects of the Statute of 15 R. 2. c. 2. Palmer 277.

"II. And for that the said statute doth not extend to entries in tene-"ments in peaceable manner and after holden with force, nor if the per-"sons which enter with force into lands and tenements be removed and

No. III.
8 Henry VI. c. 9.

" voided before the coming of the said justices or justice as before, nor " any pain ordained if the sheriff do not obey the commandments and " precepts of the said justices to execute the said ordinance, many " wrongful and forcible entries be daily made in lands and tenements by " such as have no right, and also divers gifts feoffments and discon- " tinuances sometimes made to Lords and other puissant persons and " extortioners within the said counties where they be conversant, to have " maintenance, and sometimes to such persons as be unknown to them " so put out to the intent to delay and defraud such rightful possessors " of their right and recovery for ever, to the final disherison of divers of " the King's faithful liege people and likely daily to increase if due " remedy be not provided in this behalf;" 'Our Lord the King consider- 'ing the premises hath ordained, That the said statute and all other 'statutes of such entries or alienations made in times past, shall be 'holden and duly executed; joined to the same, That from henceforth 'where any doth make any forcible entry in lands and tenements or other 'possessions or them hold forcibly, and after complaint thereof made within 'the same county where such entry is made to the justices of peace or to 'one of them by the party grieved, that the justices or justice so warned 'within a convenient time shall cause, or one of them shall cause the 'said statute duly to be executed, and that at the costs of the party so 'grieved.

The Office and Duty of Justices of Peace when any forcible Entry is made into Lands, or peaceable Entry, and after detaining with Force. Carthew, 49.

III. 'And moreover though that such persons making such entry be 'present or else departed before the coming of the said justices or justice, 'notwithstanding the same justices or justice in some good town next to 'the tenements so entered or in some other convenient place according 'to their discretion shall have or either of them shall have authority and 'power to inquire by the people of the same county as well of them that 'make such forcible entries in lands and tenements as of them which 'the same hold with force; and if it be found before any of them that 'any doth contrary to this statute, then the said justices or justice shall 'cause to reseise the lands and tenements so entered or holden as afore, 'and shall put the party so put out in full possession of the same lands 'and tenements so entered or holden as before. And if any person after 'such entry into lands or tenements holden with force make a feoffment 'or other discontinuance to any lord or other person to have maintenance 'or to take away and defraud the possessor of his recovery in any wise 'if after in assize or other action thereof to be taken or pursued before 'justices of assizes or other the King's justices whatsoever by due inquiry 'thereof to be taken, the same feoffments and discontinuances may be 'duly proved to be made for maintenance as afore is said, that then such 'feoffments or other discontinuance so as before made shall be void frus- 'trate and holden for none.

1 Leonard, 327. The Remedy where any Person entering by Force doth aliene the same Land to have Maintenance. 1 R. 2. c. 9. Dyer 122. 187. 9 Co. 118.

11 Co. 65. 7 Ed. 4. f. 8. 4 H. 7. f. 18. Cro. Eliz. 184. 189. 306. 458. 461. 582. 654. 738. 915. Cro. Jac. 17. 19. 31. 41. 148. 151. 176. 214. Cro. Car. 101.

IV. 'And also when the said justices or justice make such inquiries 'as before, they shall make or one of them shall make their warrants and 'precepts to be directed to the sheriff of the same county, commanding 'him of the King's behalf to cause to come before them and every of 'them sufficient and indifferent persons dwelling next about the lands so 'entered as before to inquire of such entries, whereof every man which 'shall be impannelled to inquire in this behalf shall have land or tenement 'of the yearly value of forty shillings by the year at the least above re- 'prises. And that the sheriff return issues upon every of them at the day 'of the first precept returnable xx. s. and at the second day xl. s. and at 'the third time C. s. and at every day after the double. And if any sheriff 'or bailiff within a franchise having return of the King's writ be slack 'and make not execution duly of the said precepts to him directed to 'make such inquiries, that he shall forfeit to the King xx. li. for every 'default, and moreover shall make fine and ransom to the King.

The Justices Precept to the Sheriff to return a Jury to inquire of forcible Entries.

Juror to have 40s. per Ann.

The Sheriff's Penalty for omitting his Duty.

V. 'And that as well the justices or justice aforesaid as the justices 'of assizes and every of them at their coming into the country to take

No. III.
8 Henry VI. c. 9.

'assizes shall have and every of them shall have power to hear and determine such defaults and negligencies of the said sheriffs and bailiffs and every of them as well by bill at the suit of the party grieved for himself as for the King to sue by indictment only to be taken for the King. And if the sheriff or bailiff be duly attainted in this behalf by indictment or by bill, that he which sueth for himself and for the King have the one moiety of the forfeiture of xx. li. together with his costs and expences. And that the same process be made against such persons indicted or sued by bill in this behalf as should be against persons indicted or sued by writ of trespass done with force and arms against the peace of the King.

What Action may be had against him who doth put out, or keep out of Possession with Force. Savil 68. 1 H. 7. f. 19. 6 H. 7. f. 12. 10 H. 7. f. 19. 15 H. 7. f. 17. Dyer, f. 142. Fitz. Ent. 15. 16. 17. 18. 21. 27. 33. 39. 45. 10 H. 7. f. 12. 10 Ed. 4. f. 10. Dyer, 214. Fitz. Dam. 23. 25. 10 Co. 116. 11 Co. 30. Cro. El. 93. 96. 106. 697. 22 H. 6. f. 18. Kel. f. 74. a. 187. 14 H. 7. f. 28. Dyer, f. 141. Bro. Force, 22. 1 Bulst. 218. 2 Leon, 52. Co. Pl. f. 315.

VI. 'And moreover if any person be put out or disseised of any lands or tenements in forcible manner, or put out peaceably and after holden out with strong hand; or after such entry any feoffment or discontinuance in any wise thereof be made to defraud and take away the right of the possessor; that the party grieved in this behalf shall have assize of *novel disseisin* or a writ of trespass against such disseissor. And if the party grieved recover by assize or by action of trespass and it be found by verdict or in other manner by due form in the law that the party defendant entered with force into the lands and tenements or them after his entry did hold with force, that the plaintiff shall recover his treble damages against the defendant; and moreover that he make fine and ransom to the King. And that mayors justices or justice of peace sheriffs and bailiffs of cities towns and boroughs having franchise, have in the said cities towns and boroughs like power to remove such entries and in other articles aforesaid rising within the same as the justices of peace and sheriffs in counties and countries aforesaid have.

The Authority of the chief Officers in Cities, &c. to repress Force. Inforced *and explained by* 31 El. c. 11.

They may keep their Land by Force who have had three Years Possession. 1 Salk. 356. 1 Inst. 257. 5 R. 2. st. 1. c. 7. 4 H. 4. c. 8. 23 H. 8. c. 14. *and see* 21 *Jac.* 1. *c.* 15. *which enables Justices to give restitution in certain Cases.*

VII. 'Provided always, That they which keep their possessions with force in any lands and tenements whereof they or their ancestors or they whose estate they have in such lands and tenements have continued their possessions in the same by three years or more be not endamaged by force of this statute.'

[No. IV.] 23 Henry VIII. c. 14.—Process of Outlawry to lie in Actions, on 5 *Rich.* II. and in Covenant and Annuity.

23 Henry VIII. c. 14.

Like Process to be had in every Writ of Annuity and Covenant, as in an Action of Debt.

5 R. 2. st. 1. c. 8. Br. Exigent, 22. 53. 63. Br. Process, 12. 125.

'FORASMUCH as there is great delay in actions of trespass brought upon the statute of *Richard* the Second, made in the fifth year of his reign, against them that make entries into any lands or tenements where their entry is not given by the law, and also in actions of annuity and actions of covenant, because there lieth no process of outlawry in such nature of actions:' (2) For reformation whereof, it may please the King's Highness by the advice of the Lords Spiritual and Temporal and the Commons in this present Parliament assembled, and by authority of the same, to ordain and enact, That like process be had hereafter in every action from henceforth to be brought upon the said statute *anno quinto* as is in a common action of trespass at the common law, (3) and that also like process be had in every writ of annuity and covenant hereafter to be sued as is in an action of debt.

[No. V.] 31 Eliz. c. 11.—An Act of Explanation or Declaration of the Statute of *octavo Regis II.* 6. concerning forcible Entries, the Indictments thereupon found.

No. V. 31 Eliz. c. 11.

'WHEREAS there is one good Act made and established in the eighth 'year of the reign of King *Henry* the Sixth against such persons as 'should make forcible entry into lands tenements and other possessions 'or them should forcibly hold; and one very good proviso or clause in 'the said Act contained as ensueth.

31 Eliz. c. 11. 8 H. 6. c. 9.

II. 'Provided always, That they which keep their possessions with 'force in any lands and tenements whereof they or their ancestors have 'continued their possession in the same by three years or more be not 'endamaged by force of the said statute.

III. 'And whereas divers of the Queen's Majesty's good and loving 'subjects and their ancestors or those whose estate they have for many 'years together above the space of three years or more have been in 'quiet possession of their dwelling-houses and other their lands and pos-'sessions; and now of late divers of her Majesty's said subjects having 'entries made upon their possessions having had such quiet and long 'possession, for disturbing of such entrers and for keeping of their pos-'session against such entrers by colour of indictments of forcible entry 'or forcible keeping possession found against them by means of the 'oaths of such entrers, have been removed and put out of their dwelling-'houses and other their possessions which they have quietly held by the 'space of three years together or longer time next before such indict-'ments found against them, against the true meaning and intent of the 'said proviso or clause contained in the said Act:' (2) For remedy of which inconvenience and for true declaration and explanation of the law therein, (3) Be it ordained declared and enacted by the authority of this present Parliament, That no restitution upon any indictment of forcible entry or holding with force be made to any person or persons if the person or persons so indicted hath had the occupation or hath been in quiet possession by the space of three whole years together next before the day of such indictment so found and his her or their estate or estates therein not ended or determined; which the party indicted shall and may allege for stay of restitution, and restitution to stay until that be tried if the other will deny or traverse the same: (5) And if the same allegation be tried against the same person or persons so indicted, then the same person or persons so indicted to pay such costs and damages to the other party as shall be assessed by the judges or justices before whom the same shall be tried; the same costs and damages to be recovered and levied as is usual for costs and damages contained in judgments upon other actions. 5 R. 2. stat. 1. c. 7. 15 R. 2. c. 2. 4 H. 4. c. 8. 21 Jac. 1. c. 15.

The Proviso in the Statute of 8 H. 6. c. 9. touching Continuance of Possessions by Three Years. 1 Salk. 353.

No Restitution shall be made if the Party indicted hath been three years in quiet Possession, and his Estate not ended. Raym. 84, 85. Dyer, 141.

Costs shall be awarded against the Party indicted, if his said Allegation be found against him.

[No. VI.] 21 James I. c. 15.—An Act to enable Judges and Justices of the Peace to give Restitution of Possession in certain Cases.

21 James I. c. 15.

BE it enacted by the authority of this present Parliament, That such judges justices or justice of the peace as by reason of any Act or Acts of Parliament now in force are authorised and enabled upon inquiry to give restitution of possession unto tenants of any estate of freehold of their lands or tenements which shall be entered upon with force or from them withholden by force, shall by reason of this present Act have the like and same authority and ability from henceforth (upon indictment of such forcible entries or forcible withholdings before them duly found) to give like restitution of possession unto tenants for term of years tenants by copy of court-roll guardians by knights-service tenants by *elegit* statute-merchant and staple, of lands or tenements by them so holden which shall be entered upon by force or holden from them by force. 5 R. 2. stat. 1. c. 7. 15 R. 2. c. 2. 8 H. 6. c. 9. 31 El. c. 11.

4 Inst. 176.

Restitution of Possession shall be given, to avoid Entries with Force, in Estates for Years, &c. Latch. 183.

PART VI.

CLASS XVIII.

Friendly Societies, and Foundling Hospitals.

[No. 1.] 33 George III. c. 54.—An Act for the Encouragement and Relief of Friendly Societies.—[21*st June* 1793.]

33 Geo. III. c. 54.

'WHEREAS the protection and encouragement of Friendly Societies 'in this kingdom for raising by voluntary subscription of the mem'bers thereof separate funds for the mutual relief and maintenance of 'the said members in sickness old age and infirmity is likely to be at'tended with very beneficial effects by promoting the happiness of indi'viduals and at the same time diminishing the publick burthens;' May it therefore please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That it shall and may be lawful to and for any number of persons in *Great Britain* to form themselves into and to establish one or more society or societies of good fellowship, for the purpose of raising from time to time by subscriptions of the several members of every such society or by voluntary contributions, a stock or fund for the mutual relief and maintenance of all and every the members thereof in old age sickness and infirmity, or for the relief of the widows and children of deceased members; and to and for the several members of each such society or such number of them as shall be nominated a committee for that purpose, from time to time to assemble together, and to make ordain and constitute such proper and wholesome rules orders and regulations for the better government and guidance of the same as to the major part of such society or such committee thereof so assembled together shall seem meet, so as such rules orders and regulations shall not be repugnant to the laws of this realm nor any of the express provisions or regulations of this Act, and to impose and inflict such reasonable fines and forfeitures upon the several members of any such society who shall offend against such rules orders or regulations as shall be just and necessary for duly enforcing the same, to be respectively paid to such uses for the benefit of such society, as such society by such rules orders or regulations shall direct; and also from time to time to alter and amend such rules orders and regulations as occasion shall require, or to annul and repeal the same, and to make new rules orders and regulations in lieu thereof, under such restrictions as are in this Act contained. (1.)

Any Number of Persons may form themselves into a Society, and raise among themselves a Fund for their mutual Benefit, and may make Rules and impose Fines, &c.

(1.) In Rex *v.* Justices of Staffordshire, 12 East. 280. the Court of B. R. refused a Mandamus to allow the Rules of a Society of Roman Catholic Secular Priests, as not being within the meaning of the Act; the object of the Society not being confined to the charitable relief and maintenance of its old, sick, and infirm Members. There are many Societies established amongst journeymen in particular trades, ostensibly for the purposes of this Act, but really for the purpose of supporting illegal Combinations; and I have seen the Rules of such Societies (which have been inadvertently allowed) containing provisions which were evidently foreign from the purposes of the Act. At some Sessions it is the practice not to allow the Rules of any Society, of which all the Members are, by the Constitution of the Society, to be of the same occupation.

II. Provided always, and be it further enacted by the authority aforesaid, That all such rules orders and regulations with all convenient speed after the same shall be made altered or amended, and so from time to time after every making altering or amending thereof, shall be exhibited in writing to the justices of the peace assembled at the general quarter sessions of the peace or at any adjournment thereof in and for the county riding division or shire where such society shall be established, and such rules orders and regulations shall be subject to the review of such justices, who shall and may after due examination thereof at the then or the then next subsequent session annul and make void all such rules orders or regulations as shall be repugnant to this Act, and shall allow and confirm all such rules orders and regulations as shall be conformable to the true intent and meaning of this Act; and after the confirmation thereof by such justices all such rules orders and regulations so confirmed shall be signed by the clerk of the peace at such sessions, and a duplicate thereof being first fairly wrote on parchment shall be deposited with the clerk of the peace at such sessions, to be by him filed with the rolls of the sessions there without any fee to be paid for any matter or thing relating to the same; and such rules orders and regulations approved of and confirmed by the justices and filed as aforesaid shall be binding upon all parties during the continuance of the same; and no such society which shall hereafter be established shall be deemed or taken to be within the intent and meaning of this Act until good and competent rules orders and regulations for the government of the same shall have been confirmed by the justices and filed as aforesaid, according to the directions of this Act before mentioned; nor shall any such society which hath already been established for the purpose aforesaid, be or be deemed or taken to be within the intent and meaning of this Act, unless all the rules orders or regulations under which such society is thereafter to be governed shall be exhibited and confirmed in manner aforesaid, and shall be filed at the general quarter sessions of the peace or at any adjournment thereof to be holden in and for the county riding division or shire where such society hath been established, at some time before or immediately next after the Feast of *Saint Michael* in the year one thousand seven hundred and ninety-four.

Rules of such Societies to be exhibited to the Justices in Quarter Sessions, who may annul or confirm them.

Rules to be signed by the Clerk of the Peace, and deposited with him.

No Society to be within the Meaning of this Act till their Rules have been confirmed.

III. Provided also, and be it further enacted by the authority aforesaid, That no rule order or regulation confirmed by the justices of the peace in manner aforesaid shall be altered rescinded or repealed, unless at a general meeting of the members of such society as aforesaid convened by publick notice in writing signed by the secretary or clerk of such society, in pursuance of a requisition for that purpose by three or more of the members of such society, and publicly read at the two usual meetings of such society to be held next before such general meeting for the purpose of such alteration or repeal, unless a committee of such members shall have been nominated for that purpose, in which case such committee shall be convened in like manner, and unless such alteration or repeal shall be made with the concurrence and approbation of three-fourths of the members of such society then and there present, or by the like proportion of such committee as aforesaid if any shall have been nominated for that purpose; and such alteration or repeal shall be subject to the review of the justices at such general quarter sessions of the peace or at any adjournment thereof as aforesaid, and shall be filed in the manner herein-before directed; and that no such rule order or regulation shall be binding or have any force or effect until the same shall have been agreed to and confirmed by such justices and filed as aforesaid.

No confirmed rule to be altered but at a General Meeting of the Society, &c.

Alterations of Rules to be subject to the Review of the Quarter Sessions.

IV. And be it further enacted by the authority aforesaid, That every such society shall and may from time to time at any of their general meetings or by their committee, if any such shall be appointed for that society, elect and appoint such persons into the office of steward president warden treasurer or trustee of such society as they shall think proper, and also shall and may from time to time elect and appoint such clerks and other officers as shall be deemed necessary to carry into execution the purposes of such institution, for such space of time and for

Society may appoint Officers.

No. I.
33 Geo. III.
c. 54.

such purposes as shall be fixed and established by the rules and regulations of such society, and from time to time to elect and appoint others in the room of those who shall vacate or die; and such treasurer or treasurers trustee or trustees and all and every other officer or officers or other persons whatever, who shall be appointed to any office in any wise touching or concerning the receipt management or expenditure of any sum or sums of money collected for the purpose of any such society, before he or they shall be admitted to take upon him or them the execution of any such office or trust shall (if required so to do by the rules or regulations of such society to which such officers shall belong) become bound with two sufficient sureties for the just and faithful execution of such office or trust, and for rendering a just and true account according to the rules orders and regulations of such society and in all matters lawful to pay obedience to the same, in such penal sum or sums of money as by the major part of such society at any such meeting as aforesaid shall be thought expedient, and to the satisfaction of such society; and that every such bond or bonds to be given by or on the behalf of such treasurer or treasurers trustee or trustees shall be given to the clerk of the peace of the county riding division or shire where such society shall be established for the time being without fee or reward; and in case of forfeiture it shall be lawful to sue upon such bond in the name of the clerk of the peace for the time being for the use of the said society; and every such bond or bonds to be given by any other person or persons appointed to any such other office or trust as aforesaid shall be given to the treasurer or treasurers trustee or trustees as aforesaid of such society for the time being, to be by him or them respectively prosecuted for any forfeiture thereof, and for the use of such society to which such officer or officers shall belong; and no bond or other security to be given to or on account of any such society or in pursuance of this Act shall be charged or chargeable with any stamp duty whatever.

Securities to be given for Officers of Trust, if required.

Treasurers or Trustees to give Bond to the Clerk of the Peace;

and other Persons to the Treasurers or Trustees.

Bonds not chargeable with Stamp Duty.

V. And be it further enacted by the authority aforesaid, That every such society shall and may from time to time elect and appoint any number of the members of such society, not less than eleven, to be a committee, and shall and may delegate to such committee all or any of the powers given by this Act to be executed, who being so delegated shall continue to act as such committee for and during such time as they shall be appointed; and in all cases where a standing committee shall be appointed for such society for general purposes, the powers of such committee shall be first declared in and by the rules orders and regulations of such society, confirmed by the justices of the peace at their sessions, and filed in the manner herein-before directed; and in all cases where a committee shall be appointed for any particular purpose or purposes, the powers delegated to such committee shall be reduced into writing and entered into a book by the secretary or clerk of such society, and five of the members of such committee at least shall at all times be necessary to concur in any act of such committee, and such committee shall in all things delegated to them act for and in the name of such society; and all acts and orders of such committee under the powers delegated to them, shall have the like force and effect as the acts and orders of such society at any general meeting thereof could or might have had in pursuance of this Act: Provided always, that the transactions of such committee shall be from time to time and at all times subject and liable to the review allowance or disallowance and control of such society, in such manner and form as such society shall by their general rules orders and regulations confirmed by the justices and filed as aforesaid have directed and appointed or shall in like manner direct and appoint.

Appointment of Committees.

Powers of Standing Committees to be declared in the Rules of the Society, and of particular ones entered in a Book.

Committees controulable by Society.

VI. And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for the treasurer or treasurers trustee or trustees for the time being of any such society and he and they is and are hereby authorised and required from time to time by and with the consent of such society, to be had and testified in such manner as shall be directed by the general rules and orders of such society, to lay out or dispose of such part of all such sums of money as shall at any time be collected

Treasurers or Trustees to lay out Surplus of Contributions,

given or paid to and for the beneficial ends intents and purposes of such society, as the exigencies of such society shall not call for the immediate application or expenditure of, either on private securities to be approved of as aforesaid, (such securities to be taken in the name or names of such treasurer or treasurers trustee or trustees for the time being,) or to invest the same in the public stocks or funds in the proper name or names of such treasurer or treasurers trustee or trustees, and from time to time with such consent as aforesaid to alter and transfer such securities and funds and to make sale thereof respectively.

and to bring the Proceeds to Account for the Use of the Society.

VII. And be it further enacted by the authority aforesaid, That all the dividends interest and proceeds which shall from time to time arise from the monies so laid out or invested as aforesaid, shall from time to time be brought to account by such treasurer or treasurers trustee or trustees, and shall be applied to and for the use of such society according to the rules orders and regulations thereof.

Treasurers, &c. to render Accounts, and pay over Balances, &c.

VIII. Provided always and be it further enacted by the authority aforesaid, That the treasurer or treasurers trustee or trustees for the time being, and all other officers of any such society who shall have or receive any part of the monies effects or funds of such society, or shall in any manner have been or shall be entrusted with the disposition management or custody thereof, or of any securities relating to the same, his her and their executors administrators and assigns respectively, shall upon demand made in pursuance of any order by such society or committee to be appointed as aforesaid for that purpose, give in his or their account or accounts at a general meeting of any such society or to such committee thereof as aforesaid, to be examined and allowed or disallowed, and shall on the like demand pay over all the monies remaining in his or their hands and assign and transfer or deliver all securities effects or funds taken or standing in his or their name or names as aforesaid, or being in his or their hands or custody to the treasurer or treasurers or trustee or trustees for the time being or to such person or persons as such society shall appoint; and in case of any neglect or refusal to deliver such account or to pay over such monies or to assign transfer or deliver such securities or funds in manner aforesaid, it shall and may be lawful to and for every such society, in the name of the treasurer or treasurers trustee or trustees thereof as the case may be, to exhibit a petition in the High Court of Chancery or the Court of Exchequer in *England* or the Court of Session in *Scotland* or the Courts of Great Sessions in *Wales* respectively, who shall and may proceed thereupon in a summary way and make such order therein upon hearing all parties concerned as to such court in their discretion shall seem just; and all assignments and transfers made in pursuance of such order shall be good and effectual in law, to all intents and purposes whatsoever.

and in case of Neglect, Application may be made to the Court of Chancery, &c.

No Fee to be taken for any Proceedings in such Courts, &c.

IX. And be it further enacted by the authority aforesaid, That no fee reward emolument or gratuity whatsoever shall be demanded taken or received by any officer or minister of such court, for any matter or thing done in such court in pursuance of this Act; and that upon the presenting of any such petition, it shall be lawful for the Lord High Chancellor the Master of the Rolls and Barons of the Exchequer respectively in *England*, or the Lords of Session in *Scotland*, or the Judges of any of the Courts of Great Sessions in *Wales*, to assign counsel learned in the law and to appoint a clerk of such court to advise and carry on such petition on the behalf of such society, who are hereby respectively required to do their duties therein without fee or reward; and that no such proceedings in such court in pursuance of this Act shall be chargeable with any stamp duty.

Executors, &c. to pay Money due to Societies before any other Debts.

X. And be it further enacted by the authority aforesaid, That if any person appointed to any office by any such society, and being entrusted with or having in his hands or possession any monies or effects belonging to such society or any securities relating to the same, shall die or become a bankrupt or insolvent, his executors or administrators assignee or assignees shall, within forty days after demand made by the order of any such society or the major part of them assembled at any meeting thereof, deli-

No. I.
33 Geo. III.
c. 54.

ver over all things belonging to such society to such person or persons as such society shall appoint and shall pay out of the assets or effects of such person all sums of money remaining due, which such person received by virtue of his said office, before any of his other debts are paid or satisfied; and all such assets and effects shall be bound to the payment and discharge thereof accordingly.

Effects of Societies to be vested in the Treasurers or Trustees for the Time being, who may bring and defend Actions, &c.

XI. And be it further enacted by the authority aforesaid, That all monies goods chattels stocks annuities and other transferrable securities and effects whatever belonging to such society, shall be vested in the treasurer or treasurers trustee or trustees for the time being for the use and benefit of such society, and from and after the death or removal of any treasurer or treasurers trustee or trustees shall vest in the succeeding treasurer or treasurers trustee or trustees for the same estates and interests as he or they then had therein and subject to the same trust without any assignment or transfer whatever; and also shall for all purposes of action or suit as well criminal as civil in law or in equity in any wise touching or concerning the same, be deemed and be taken to be and shall in every such proceeding (where necessary) be stated to be the property of the person or persons appointed to the office of treasurer or treasurers trustee or trustees (as the case may be) of such society for the time being in his her or their proper name or names; and such person or persons so appointed shall, and they are hereby respectively authorised to bring or defend or cause to be brought or defended any action suit or prosecution criminal as well as civil, touching or concerning such monies goods or chattels or effects of or belonging to such society; and such person or persons so appointed shall and may in all cases concerning the property of such society sue and be sued plead and be impleaded in his or their proper name or names without other description; and no such suit action or prosecution shall be discontinued or abate by the death or removal of such person or persons from the said office of treasurer or treasurers trustee or trustees aforesaid, but the same shall and may be proceeded in by the succeeding treasurer or treasurers trustee or trustees in the proper name or names of the person or persons commencing the same; any law usage or custom to the contrary thereof notwithstanding.

Societies to declare the Purpose of their Establishment, &c. before the Confirmation of their Rules by the Quarter Sessions;

XII. And be it further enacted by the authority aforesaid, That every such society so to be established as aforesaid, before any of the rules orders or regulations thereof shall be confirmed by the justices in the manner herein-before directed, shall in or by one or more of the general rules orders or regulations to be confirmed by such justices declare all and every the intents and purposes for which such society is intended to be established; and shall also in and by such rules orders and regulations direct all and every the uses and purposes to which the money which shall from time to time be subscribed paid or given to or for the use or benefit of such society, or which shall arise therefrom or in anywise belonging to such society, shall be appropriated and applied, and in what shares and proportions and under what circumstances any member of such society or other person shall or may become entitled to the same or any part thereof; and which application shall not in anywise be repugnant to the uses intents and purposes of such society or any of them so to be declared as aforesaid; and all such rules orders or regulations during the continuance of the same shall be complied with and enforced; and the monies so subscribed paid or given or so arising to or for the use or benefit of such society or belonging thereto shall not be diverted or misapplied either by the treasurer or treasurers trustee or trustees or any other officer or officers of such society entrusted therewith, under such penalty or forfeiture as such society shall by any general rule order or regulation impose and inflict for such offence; and that it shall not be lawful for any such society by any rule order or regulation at any general meeting or otherwise to dissolve or determine such society so long as the intents or purposes declared by such society or any of them remain to be carried into effect without the consent and approbation of five-sixths of the then existing members of such society and also of all persons then receiving or then entitled to receive relief from such society either on account of sickness

and may inflict Penalty for Misapplication of Money.

The Consent necessary for Dissolution of Societies.

age or infirmity, to be testified under their hands individually and respectively; nor shall it be lawful for such society by any rule order or regulation to direct the division or distribution of such stock or fund or any part thereof to or amongst the several members of such society, other than for carrying into effect the general intents and purposes of such society declared by them and confirmed by the justices of the peace as aforesaid according to the directions of this Act, but that all such rules orders or regulations for the dissolution or determination of any such society without such consent as aforesaid, or for the distribution or division of the stock or fund of such society contrary to the rules orders and regulations which shall have been confirmed by the said justices at their sessions and filed in pursuance of this Act shall be void and of none effect.

Stock not divisible but for the general Purposes of the Society.

XIII. And be it further enacted by the authority aforesaid, That all the rules orders and regulations from time to time made ordained and constituted by any such society in the manner directed by this Act shall be forthwith entered into a book or books to be kept by one or more of the members of such society to be appointed for that purpose and shall be signed by the said members, and shall at all seasonable times be open for the inspection of any member of such society; and all such rules orders and regulations so entered and signed shall be deemed original orders and shall be received in evidence as such in all disputes and in all trials before any court in this kingdom; and that no *certiorari* shall be brought or allowed to remove any of the rules orders or regulations of any such society made in pursuance of this Act into any of his Majesty's courts of record at *Westminster*.

Rules to be entered into a Book, and received in Evidence, &c.

XIV. And be it further enacted by the authority aforesaid, That it shall and may be lawful for any such society to receive donations of any person or persons towards the supply of their stock or fund, and all such sums shall be applicable to the general purposes of such society in the like manner as the contributions of the several members of such society are or shall be directed to be applied in pursuance of this Act, and shall not be applied in any other manner.

Societies may receive Donations.

XV. And be it further enacted by the authority aforesaid, That if any person having been admitted a member of any such society established by virtue of this Act shall think himself aggrieved by any act matter or thing done or omitted to be done by any such society or any person or persons acting under them, it shall and may be lawful for any two or more justices of the peace of the county riding division or shire where or near unto the place where such society shall be established, on complaint made upon oath or affirmation by or on the behalf of such person (which oath or affirmation such justices of the peace are hereby empowered and required to administer) to issue their summons to the presidents wardens stewards or other principal officers of such society by whatever name such principal officers shall be respectively named or called, or one of them in case such complaint shall be made against such society collectively, and in case such complaint shall be made against any person or persons appointed to such office or offices then to summon such person or persons to appear before such justices at a convenient time and place to be respectively named in such summons; and also to summon at the same time and place, if there shall be occasion, all such persons as shall appear to such justices to have the custody of the rules orders and regulations of such society, and such justices at the time and place named in such summons, whether the person or persons so summoned shall or shall not appear according to such summons, nevertheless on proof upon oath or affirmation of such summons being duly served or left at his her or their usual place or places of abode, shall proceed peremptorily to hear and determine in a summary way the matter of such complaint according to the true purport and meaning of the rules orders and regulations of such society confirmed by the justices according to the directions of this Act, and shall make such order therein as to them shall seem just; and every such order of such justices shall be complied with and shall be final to all intents and purposes, and shall not be subject to appeal or to be removed or removeable into any of his Majesty's courts of record at *Westminster*.

Proceedings, where Members think themselves aggrieved.

No. I.
33 Geo. III. c. 54.

Where general Rules direct Disputes to be settled by Arbitration, the Award of the Arbitrators to be final.

XVI. Provided always and be it further enacted by the authority aforesaid, That if provision shall be made by one or more of the general rules or orders of any such society and confirmed as required by this Act for a reference by arbitration of any matter in dispute between any such society or any person or persons acting under them and any individual members thereof, the matter so in dispute shall be referred to such arbitrators as shall be named and elected in such manner as shall be prescribed by such general rules or orders; and whatever award order or determination shall be made by the said arbitrators or the major part of them according to the true purport and meaning of the rules and orders of such society confirmed by the justices according to the directions of this Act shall be binding and conclusive on all parties and shall be final to all intents and purposes without appeal or being subject to the controul of two or more justices of the peace in the manner herein-before prescribed.

No Member of a Society, producing a Certicate thereof, to be removeable till actually chargeable to a Parish.

XVII. And be it further enacted by the authority aforesaid, That no member of any society to be established in pursuance of this Act who shall inhabit or reside in any parish township or place, not having a legal settlement there, or who shall come to inhabit or reside there, and shall deliver to the churchwardens or overseers of the poor of such parish township or place or to any or either of them a certificate under the hands of the stewards presidents wardens or treasurers of such society or any two of them for the time being, to be attested by one or more credible witness or witnesses, thereby acknowledging the person mentioned in such certificate to be a member of such society, shall during the time such person shall continue to be such member thereof be removeable from any parish township or place where any such certificate hath been delivered as aforesaid to the place of his or her last legal settlement by virtue of any law now in being relative to the settlement of the poor, until such person shall become actually chargeable to such parish township or place or shall be forced to ask relief for himself or herself or for his or her family or for some part thereof of the parish township or place to which such certificate was delivered as aforesaid, and that then and not before it shall and may be lawful for such person together with his or her family, not having otherwise acquired a legal settlement there, to be removed and conveyed to the last legal place of settlement of such person as aforesaid according to the laws now in being relating to the settlement of the poor.

How Certificates are to be authenticated.

XVIII. Provided always and be it further enacted, That every such certificate shall express the place and places of abode respectively of the persons signing and attesting the same; and that one of the witnesses attesting the same shall make oath before a justice of the peace of the county riding division shire liberty borough town corporate or place where such society shall be established, (which oath such justice of the peace is hereby authorised and required to administer) that such witness did see the persons whose names are thereunto set severally sign the said certificate, and that the name or names of such witness or witnesses is or are of his or their own proper hand-writing, which said justice of the peace shall also certify that such oath was made before him; and every such certificate so made and oath of the execution thereof so certified by the said justice of the peace shall be taken deemed and allowed in all courts whatsoever as duly and fully proved, and shall be taken and received as evidence without other proof thereof.

On Complaint of Parish Officers, Justices may summon Persons bringing Certificates to be examined, and make Oath of their Settlement, &c.

XIX. Provided always and be it further enacted by the authority aforesaid, That it shall and may be lawful, upon complaint made by the churchwardens and overseers of the poor of any parish township or place where such certificate shall be delivered to any justice or justices of the peace of the county riding division or shire or of the city borough town corporate or place where any such person as aforesaid shall inhabit or reside or come to inhabit or reside under the authority of this Act, for such justice or justices of the peace to cause any such person mentioned in such certificate as aforesaid to be summoned before him or them in the division or place where such person shall so reside or come

No. I.
33 Geo. III.
c. 54.

to reside, in order to be examined and to make oath touching the place of his or her last legal settlement (which examination upon oath the said justice or justices is and are hereby empowered and required to take), and every such person so summoned is hereby directed or required to obey such summons and to make oath accordingly; and such justice or justices is and are hereby respectively required to give an attested copy of such examination so taken before him or them to the person making the same, to be by him or her or any person on his or her behalf at any time afterwards produced before any such of his Majesty's justices of the peace as aforesaid, before whom such person shall be again summoned to make oath as aforesaid; and that in case any such person shall be so again summoned, then on the production of such attested copy as aforesaid such person shall not be compelled or required to take any other or further oath with regard to any of the matters contained in such examination, but such person shall if required permit a copy thereof to be taken for such last-mentioned justice or justices of the peace.

Copies of Examinations to be given the Parties, which shall exempt them from future Examination.

XX. And be it further enacted by the authority aforesaid, That it shall and may be lawful for any two or more of the justices of the peace as aforesaid who shall have taken such examination as aforesaid, or before whom such attested copy of such examination shall be produced, at the request of such churchwardens and overseers of the poor as aforesaid by an order in writing under the hand and seal or hands and seals of such justices to adjudge and declare the place of the last legal settlement of any such person having been so examined on oath as aforesaid, or such of his or of her family as shall reside in such parish township or place under the authority of this Act, without issuing any warrant to remove such person or his or her family as aforesaid to such place of his her or their last legal settlement, and that a duplicate of every such order shall be transmitted to the general quarter sessions of the peace to be holden next after the expiration of twenty days from the time of making thereof for the county riding division or shire where such person shall so reside, to be filed amongst the records of the said court; and that a copy of every such order to be attested by one or more credible witness or witnesses or a duplicate thereof, together with an attested copy of such examination to be annexed to such copy of such order or duplicate thereof, shall be delivered to the churchwardens and overseers of the poor of the parish township or place in which the person mentioned in such order shall be adjudged to be last legally settled as aforesaid or to any or either of them at least fifteen days before the first day of holding such sessions; and that upon due proof to be made on oath of one or more credible witness or witnesses before the justices of the peace at such sessions of the delivery of such copy or duplicate with such examination annexed thereto as aforesaid, it shall and may be lawful for the said justices of the peace at such sessions and they are hereby required to direct every such order to be filed amongst the records of the said court; and that every such order so filed shall be final and conclusive in ascertaining and determining the place of the last legal settlement of the person or persons named in such order, unless the same shall be appealed against within the time herein-after mentioned.

Justices may declare by an Order in Writing the Place of Settlement of Persons so examined, without issuing Warrant for Removal.

Copies of such Orders and of Examinations to be returned to the Parish Officers of the Place of Settlement, &c.

XXI. Provided always and be it further enacted by the authority aforesaid, That all persons who shall think themselves aggrieved by any such adjudication of the said justices may appeal to the general quarter sessions of the peace to be holden next after the expiration of fifteen days from the time of the delivery of such copy or duplicate as aforesaid for the county riding division or shire where such order was made; and the justices of the peace at such sessions shall and may receive such appeal and proceed to hear and determine the merits of such appeal in like manner with the same effect and under the like rules as if the person or persons mentioned in such order had been by warrant of two justices actually removed to the place where he she or they were last legally settled under and by virtue of any law in being before and at the time of the making of this Act, and may award the like costs on such appear

Persons aggrieved by Adjudication of Justices may appeal to the Quarter Sessions.

No. I.
33 Geo. III.
c. 54.

as may be awarded on appeals from orders of removals of poor persons by any statute or statutes now in force to be recovered in like manner as costs awarded under the authority of such statute or statutes.

No Person who shall reside in any Parish under this Act shall thereby acquire a Settlement;

XXII. And be it further enacted by the authority aforesaid, That no member of any such society who shall reside in any parish township or place under and by virtue of this Act, shall have or be deemed to have acquired any settlement in such parish township or place by delivery and publication of any notice in writing, unless the same shall be made after such person shall cease to be a member of such society, and after the revocation of his or her certificate herein-before mentioned.

nor for paying Rates;

XXIII. And be it further enacted, That no member of any such society who shall reside as aforesaid under the authority of this Act, and shall be taxed rated or assessed towards any of the rates taxes or levies of the parish township or place where such member shall reside and shall duly pay the same, shall be deemed or taken thereby to have any legal settlement in such parish township or place; any law to the contrary in anywise notwithstanding.

nor any Apprentice or Servant to such Persons.

XXIV. And be it further enacted by the authority aforesaid, That no person who shall be an apprentice bound by indenture to or shall be a hired servant to or with any person who did come into or shall reside in any parish township or place under the authority of this Act, and not afterwards having gained a legal settlement in such parish township or place, shall gain or be adjudged to have any settlement in such parish township or place by reason of such apprenticeship or binding or by reason of such hiring or serving therein; but all such apprentices and servants shall have their settlements in such parish township or place as if they had not been bound or had not been hired to such person as aforesaid; (1.) any Act or Acts of Parliament to the contrary notwithstanding.

Bastards to have the Mother's Settlement.

XXV. And be it further enacted, That every child which shall be born a bastard in any parish township or place during the mother's residence therein under the authority of this Act (2.) shall have and be deemed to have the same settlement which the mother has or is entitled unto at the

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(1.) In order to prevent the Settlement of an Apprentice bound to a Master who was residing in the Parish under a Certificate from a Friendly Society, by virtue of the Stat. 33 Geo. III. c. 54. it is not sufficient for the certificated Parish merely to produce the Certificate upon appeal to the Sessions from an order of removal of the Apprentice to such Parish, but they must also show that such Certificate had been delivered to the Parish Officers, as mentioned in Sec. 17. of the Act, before the Service of the Apprentice. Rex *v.* Egremont, (Inhab.) 14 E. R. 253.

(2.) This is the only case in which this part of the Act is at present endeavoured to be carried into execution with the view to prevent the removal of single women who are with child; but as such persons by 35 Geo. III. c. 101. are to be deemed actually chargeable, and as it was decided in Rex *v.* Great Yarmouth, 8 T. R. 68. that that Enactment extends to the case of a Woman residing under a Certificate, and not merely to the general Provisions of the Statute 35th Geo. III. against removing persons not actually chargeable: it seems to be, at least, very doubtful whether this or any of the other Sections of the present Act relating to Removals can be considered as in force: for if not actually chargeable, the party cannot now be removed; if actually chargeable, this Act contains no authority to prevent the removal. And as there is no provision for making any order of Maintenance of Children born under the circumstances in question, supposing the place of Settlement to be different from that of the Birth, it would, perhaps, be expedient either to repeal these Clauses, or to declare by express Enactment that the Acts shall be considered as in force, and to provide for the Filiation of the Child, as if born in the place where the Settlement is. The impression of my own mind being that the Provision is virtually repealed. I have, in the course of magisterial duty, acted accordingly; although very far from confident of the correctness of the judgment which I have formed. *Ed.*

The 35 Geo. III. c. 101. has not repealed 33 Geo. III. c. 54; and, therefore, where an unemancipated daughter was delivered of a Bastard Child in the Township of I. during her father's residence there, under a Certificate acknowledging him to be a Member of a Friendly Society, established under 33 Geo. III. c. 54.: Held: that such Certificate extended not only to him, but to all the Members of his family also; that the Daughter, therefore, was at the time of her delivery residing in the township under the authority of 33 Geo. III. c. 54. and that by s. 25. of that Act, the settlement of the child followed that of the mother. Rex *v.* Idle (Inhab.) 2 B. and A. 149. See also Rex *v.* Egremont (Inhab.) 14 E. R. 253. post tit. *Poor Settlement.*

time of the birth of such child; any law usage or custom to the contrary notwithstanding.

No. I. 33 Geo. III. c. 54.

XXVI. And be it further enacted by the authority aforesaid, That when any overseer or overseers of the poor of any parish township or place shall have been put to any charge in the maintaining any person or persons or their families residing in such parish township or place under the authority of this Act, or in removing any person or persons back to the place to which he she or they shall belong after he she or they shall have become actually chargeable or asked relief as aforesaid, such overseers shall from time to time be reimbursed such reasonable charges by the overseers of the poor of the parish township or place to which such person or persons shall belong, the said charges being first ascertained and allowed of by one or more of his Majesty's justices of the peace residing near the place where such charges shall be incurred; to be levied in case of refusal of payment by distress and sale of the goods and chattels of such overseers of the poor as last aforesaid by warrant or warrants under the hand and seal or hands and seals of such justice or justices, returning the overplus if any there be; which warrant or warrants he or they is and are hereby required to grant.

Charges of maintaining or removing Residents under this Act to be reimbursed by the Parish to which the Parties belong.

XXVII. And be it further enacted by the authority aforesaid, That this Act shall be deemed a public Act; and be judicially taken notice of as such by all judges justices and other persons whomsoever without the same being specially pleaded.

Publick Act.

[No. II.] 35 George III. c. 111.—An Act for more effectually carrying into Execution an Act, made in the Thirty-third Year of the Reign of his present Majesty, intituled, *An Act for the Encouragement and Relief of Friendly Societies;* and for extending so much of the Powers thereof as relates to the framing Rules and Regulations for the better Management of the Funds of such Societies, and the Appointment of Treasurers to other Institutions of a charitable Nature.—[26*th June* 1795.]

35 George III. c. 111. 33 Geo. 3. c. 54. recited.

'WHEREAS by an Act passed in the thirty-third year of the reign of his present Majesty, intituled *An Act for the Encouragement and Relief of Friendly Societies*, it was provided that no society which had been established before the passing of the said Act for the purposes therein mentioned should be within the intent and meaning thereof, unless all the rules orders or regulations under which such society should thereafter be governed, should be exhibited confirmed and filed at the general quarter sessions of the peace holden for the county riding division or shire, at some time before or immediately next after the Feast of *Saint Michael* one thousand seven hundred and ninety-four: And whereas many such societies may have inadvertently omitted to take the benefit of the said Act:' May it therefore please your Majesty that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That it shall be lawful for any such society to exhibit the rules orders and regulations made for its government at any general quarter sessions of the peace, or at any adjournment thereof to be holden in and for the county riding division or shire where such society hath been established, at any time before or immediately after the *Michaelmas* session in one thousand seven hundred and ninety-six; and that such rules orders and regulations being confirmed in the manner in the said recited Act directed may be filed at such sessions, and shall be valid and as effectual as if the same had been exhibited confirmed and filed within the time in the said recited Act limited.

Societies established before passing recited Act may exhibit their Rules for Confirmation at any Quarter Sessions before or immediately after Michaelmas, 1796.

No. II.
35 Geo. III. c. 111.

II. 'And whereas several benevolent and charitable institutions and 'societies are formed in this kingdom for the purpose of relieving by 'voluntary subscriptions and benefactions widows orphans and families 'of the clergy and others in distressed circumstances: And whereas such 'institutions have or may have funds which they may wish to place out 'on public securities under the management of a treasurer: And whereas 'in order to give stability to such institutions, it is necessary that their 'property should be secured under the authority of Parliament:' Be it therefore enacted, That it shall be lawful for the governors directors managers or members of any institution, for the purpose of relieving the widows orphans and families of the clergy and others in distressed circumstances, to frame good and wholesome rules for the management and distribution of their funds, and the same from time to time to amend and alter or to make new rules as occasion shall require, and to procure the same to be presented to the justices of the peace for their confirmation within the time herein-before limited and to be registered under and subject to the same conditions methods restrictions and regulations as the members of societies to be established by virtue of the said recited Act are directed to make alter amend or renew and register their rules.

Governors of Institutions for Relief of Widows, &c. may frame Rules and present them for Confirmation as Societies established by virtue of recited Act.

III. And be it further enacted, That the governors directors managers or members of any such institution, whose rules shall be confirmed and registered according to the directions of the said recited Act, shall and may appoint a treasurer who shall give such security as is directed by the said recited Act; and that such treasurer so appointed shall be subject to account for the funds belonging to such institution, and the same shall be vested in such treasurer, and such treasurer shall sue and be sued in such manner as is directed by the said recited Act; and that all powers authorities rules methods directions regulations provisions conditions and restrictions in the said Act contained, so far as the same relate to the appointment of treasurers or to the taking security from such treasurer, and for protecting securing or recovering the funds vested in such treasurer, shall be extended to all and every the institutions established for the purposes herein-before mentioned by virtue of this Act or any of them; and all such institutions shall have and enjoy and be entitled unto the benefit of this Act with relation to the several matters before mentioned, as fully and effectually as any society established by virtue of the said recited Act can or may have or enjoy the same; and all the powers authorities rules methods directions regulations provisions conditions and restrictions in the said Act contained in relation to the several matters before mentioned shall be applied and put in execution with respect to the several institutions established by virtue of this Act, as fully and effectually as if the same had been particularly repeated and re-enacted in this Act.

Institutions whose Rules shall be confirmed may appoint Treasurers, &c. and be entitled to the Benefit of this Act.

[No. III.] 43 Geo. III. c. 111.—An Act for enabling Friendly Societies, intended to be established under an Act passed in the Thirty-third Year of the Reign of his present Majesty, to rectify Mistakes made in the Registry of their Rules.—[27*th July* 1803.]

43 George III. c. 111.

'WHEREAS by an Act passed in the thirty-third year of the reign of 'his present Majesty, intituled *An Act for the Encouragement and 'Relief of Friendly Societies;*" it was enacted, that the rules orders and 'regulations made or to be made for the government of the said societies, in order to entitle the said societies to the benefit of the said Act, 'should be first exhibited in writing to the justices of the peace assembled at the general quarter sessions of the peace or at some adjournment thereof in and for the same county riding division or shire 'where such society should be established, and should be subject to the 'examination review allowance and confirmation of such justices: And 'whereas several societies established in towns and places having peculiar

No. III.
43 Geo. III.
c. 111.

Any Society having exhibited their Regulations at any Quarter Sessions for a peculiar Jurisdiction, may exhibit them to the Quarter Sessions for the County, with a Certificate or Affidavit of such first Exhibition; and such Regulations being confirmed, shall then be valid from the Beginning.

'jurisdiction have inadvertently exhibited their rules orders and regu-
'lations to the justices assembled at the general or quarter sessions,
'having peculiar jurisdiction for such towns and places respectively, and
'not for the county riding division or shire at large, whereby they are or
'may be deprived of the benefit of the said Act:' May it therefore please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That it shall be lawful for any such society who shall have exhibited the rules orders and regulations made for government thereof at any general or quarter sessions having peculiar jurisdiction for the town or place where such society is established, and not to the sessions for the county riding division or shire at large, to exhibit the rules orders and regulations of such society to the justices assembled at any general quarter sessions or any adjournment thereof to be holden for the county riding division or shire where such society is established, such rules orders and regulations bearing the certificate of the town clerk or other proper officer of the time when such rules orders and regulations were respectively first exhibited as aforesaid; or to exhibit in like manner a duplicate or a true copy of such rules orders and regulations with an affidavit annexed, to be taken before any one justice of the peace of the county riding division or shire where such society is established, which such justice is hereby authorised to take, of the time when such rules orders and regulations were respectively first exhibited as aforesaid, subject to the like examination review allowance and confirmation of the justices assembled at such last-mentioned general quarter sessions or adjournment thereof, as is directed by the said recited Act; and such rules orders and regulations being confirmed by the justices at such last-mentioned general or quarter sessions or any adjournment thereof in manner directed by the said recited Act may be filed at such sessions, and shall be as valid and effectual from the time the same were first exhibited at the sessions having such peculiar jurisdiction as aforesaid, as if the same had been originally exhibited and filed at the sessions holden for the said county riding division or shire.

[No. IV.] 49 Geo. III. c. 125.—An Act to amend an Act made in the Thirty-third Year of his present Majesty, for the Encouragement and Relief of Friendly Societies. —[20*th June* 1809.]

49 George III. c. 125.

Two Justices, on Complaint, may enforce the Observance of any Rules; and levy any Arrears by Distress and Sale.

'WHEREAS great advantage has been derived as well to the publick
'as to individuals by the establishment of friendly societies under
'the authority of an Act of the thirty-third year of the reign of his pre-
'sent Majesty, intituled, *An Act for the Encouragement and Relief of*
'*Friendly Societies*: And whereas it is expedient to make further provi-
'sion for the attainment of the good purposes intended thereby;' Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That if any person having been admitted a member of any society established under the authority of the said Act shall offend against any of the rules orders or regulations of such society, it shall be lawful for any two justices of the peace residing within the county riding division shire stewartry city liberty or place within which such society shall be held, upon complaint made on oath by any member of such society to issue their summons to such person against whom such complaint shall be made, and upon his or her appearance or in default thereof upon due proof upon oath of the service of such summons such justices shall proceed to hear and determine the said complaint according to the rules orders and regulations of the said society confirmed as directed by the said Act, and shall make such order therein as to them shall seem just; and in case the said justice shall adjudge any sum of money to be paid

No. IV.
49 Geo. III. c. 125.

by such person against whom such complaint shall be made, and such person shall not on notice of such order forthwith pay the sum of money so adjudged to the person or persons and in the manner directed by this Act, it shall be lawful for such justices and they are hereby required by warrant under their hands and seals to cause the same to be levied by distress and sale of the goods of such person on whom such order shall have been made, together with such costs as shall be awarded by the said justices and also the costs and charges attending such distress and sale, returning the overplus (if any) to the owner.

33 Geo. 3. c. 54. § 2.

II. 'And whereas it was provided by the said Act of the thirty-third 'year of the reign of his present Majesty that no society to be established 'for the purposes therein recited should be deemed and taken to be 'within the meaning of the same Act, unless the rules of the society 'should be filed at the quarter sessions of the peace before the end of the 'year one thousand seven hundred and ninety-four, which time was en-'larged by an Act of the thirty-fifth year of his present Majesty's reign 'to *Michaelmas* one thousand seven hundred and ninety-six: And whereas 'it is expedient that all societies which were established under the au-'thority of the first-recited Act for the laudable purposes thereby intended 'previously to the same having been passed should be allowed to file 'their rules notwithstanding their having omitted to do so within the 'times limited;' Be it therefore enacted, that all such societies, the rules orders and regulations of which shall have been exhibited to the justices of the peace since *Michaelmas* one thousand seven hundred and ninety-six, or which shall at any time hereafter be exhibited in the manner directed by the said recited Act of the thirty-third year of his present Majesty, and which shall have been or shall be dealt with examined approved of and confirmed by the justices in the manner therein directed, and have been or shall be deposited with the clerk of the peace and filed as directed also by the said Act, shall be deemed and taken to be within the intent and meaning of the said Act as amply and for all purposes as if their rules had been established within the periods limited in either of the recited Acts.

35 Geo. 3. c. 111.

Benefits of recited Act 33 Geo. 3. extended to all Societies complying with this Act.

Two Justices may order Relief under said Act, and shall specify the Time and Manner of Payment.

III. And be it further enacted, That if complaint shall be made to two such justices of the peace by any member of such societies, of relief having been refused to him by any such society to which he shall be lawfully entitled according to the rules of the society to which he shall belong, it shall be lawful for the said two justices of the peace residing within the county riding division shire stewartry city liberty or place within which such society shall be held, and such justices are hereby required upon complaint made by or on the behalf of the person aggrieved thereby to summon the person, being an officer of the society against whom such complaint shall be made, and upon his or her appearance or in default thereof upon due proof upon oath of the service of such summons such justices shall proceed to hear and determine the said complaint and award such sum of money to be forthwith paid to the said complainant as shall appear to such justices to be due on such award as aforesaid together with such a sum for costs not exceeding the sum of ten shillings as to such justices shall seem meet; and if the said sums so to be awarded together with such costs shall not be forthwith and in the presence of such justice or justices paid to such complainant or to some person or persons there attending on the behalf of such complainant, then such justices shall by warrant under their hands and seals cause such sum and costs as aforesaid to be levied by distress or by distress and sale of the monies goods chattels securities and effects belonging to the said society together with all further costs and charges attending such distress or such distress and sale, returning the overplus (if any) to the said society or to one of the treasurers or trustees thereof, and in default of such distress being found then to be levied by distress and sale of the proper goods of the officer or officers of the said society so neglecting or refusing as aforesaid, together with such further costs and charges as aforesaid, returning the overplus (if any) to the owner, and so from time to time as often as complaint shall be made of the non-payment of any sum or sums

directed by such order to be paid as aforesaid such justices shall by like warrant cause such arrears from time to time to be levied in the manner before directed: Provided always, that whatever sums shall be paid by any such officer or officers or levied on his or their proper goods in pursuance of the order of any justice as aforesaid shall be repaid with all damages accruing to him or them by and out of the monies belonging to such society or out of the first monies which shall thereafter be received by such society.

Orders of Justices shall be made on Officers of Societies by Name, and served on them.

IV. And be it further enacted, That all orders made by justices of the peace by virtue of the said Act or this Act upon the complaint of any person having been admitted a member of any society established under the said Act who shall be aggrieved by any act matter or thing done or omitted to be done by any such society, shall be made upon the presidents wardens stewards treasurers trustees or other principal officers of the society to which such complaint shall relate, or any one or more of them or any of them at the discretion of the said justices in the proper name or names of such officer or officers; and every such order may be served upon the officer or officers so named therein, either by delivering a copy of the said order to such officer or officers or one of them or leaving the same at his last or usual place of abode; and such service shall be binding on such officer or officers and on the society to which such officer or officers shall belong, to do and perform or cause to be done or performed all and every the matters and things contained in and directed by such order to be done according to the true intent and meaning thereof.

All such Orders shall be final.

V. And be it further enacted, That every order adjudication or award of any justice or justices under this Act shall be final and conclusive to all intents and purposes, and shall not be removed or removeable into any court of law or restrained or restrainable by the injunction of any court of equity.

[No. V.] 57 Geo. III. c. 39.—An Act to extend certain Provisions of the Acts of the Thirty-sixth and Fifty-second Years of the Reign of his present Majesty to Matters of Charity and Friendly Societies.—[20*th June* 1817.]

57 Geo. III. c. 39.

WHEREAS it is expedient to extend the relief remedies provisions protections and indemnities made given and provided by the *Act for the Relief of Persons equitably and beneficially entitled to or interested in the several Stocks and Annuities transferable at the Bank of* England; and by the Act, intituled *An Act to extend the Provisions of an Act passed in the Thirty-sixth Year of the Reign of his present Majesty, for the Relief of Persons equitably entitled to Stocks and Annuities transferable at the Bank of* England; *and of an Act passed in this present Session for the Relief of Infant Suitors entitled to the like Stocks and Annuities to all other transferable Stocks and Funds* to certain cases herein specified, and not provided for by the said two Acts or by either of them: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act the said Acts of Parliament and all the relief and remedies provisions protections and indemnities thereby provided shall extend and be deemed and taken to extend and the same are hereby declared and enacted to extend to all cases of petitions on which the Court of Chancery or the Lord High Chancellor or Commissioners of the Great Seal for the time being, or the Master of the Rolls or the Vice Chancellor of *England* for the time being, or the Court of Exchequer are by law authorised and empowered to grant relief and make summary orders without suit, either in matters of charity or relative to or for the better security or for the application receipt payment or transfer of any

36 Geo. 3. c. 90.
52 Geo. 3. c. 158.

Extending certain Provisions of recited Acts to Charity and Friendly Societies.

No. V.

57 Geo. III. c. 39.

of the funds thereof, or in matters relative to any benefit or friendly societies, or for the better security or for the application receipt payment or transfer of any of the funds thereof.

[No. VI.] 59 Geo. III. c. 128.—An Act for the further Protection and Encouragement of Friendly Societies, and for preventing Frauds and Abuses therein.—[12*th July* 1819.]

59 Geo. III. c. 128.

WHEREAS the habitual reliance of poor persons upon parochial relief rather than upon their own industry tends to the moral deterioration of the people and to the accumulation of heavy burthens upon parishes; and it is desirable, with a view as well to the reduction of the assessments made for the relief of the poor as to the improvement of the habits of the people, that encouragement should be afforded to persons desirous of making provision for themselves or their families out of the fruits of their own industry: And whereas by the contribution of the savings of many persons to one common fund the most effectual provision may be made for the casualties affecting all the contributors; and it is therefore desirable to afford further facilities and additional security to persons who may be willing to unite in appropriating small sums from time to time to the formation of a common fund for the purposes aforesaid; and it is desirable to protect such persons against the effects of fraud or miscalculation: And whereas an Act passed in the thirty-third year of his Majesty's reign, intituled *An Act for the Encouragement and Relief of Friendly Societies*: And whereas another Act passed in the thirty-fifth year of his Majesty's reign, intituled *An Act for more effectually carrying into Execution an Act made in the Thirty-third Year of the Reign of his present Majesty, intituled 'An Act for the Encouragement and Relief of Friendly Societies,' and for extending so much of the Powers thereof as relates to the framing Rules and Regulations for the better Management of the Funds of such Societies and the Appointment of Treasurers to other Institutions of a charitable Nature*: And whereas another Act passed in the forty-third year of his Majesty's reign, intituled *An Act for enabling Friendly Societies intended to be established under an Act passed in the Thirty-third Year of the Reign of his present Majesty to rectify Mistakes made in the Registry of their Rules*: And whereas another Act passed in the forty-ninth year of his Majesty's reign, intituled *An Act to amend an Act made in the Thirty-third Year of his present Majesty, for the Encouragement and Relief of Friendly Societies*: And whereas the provisions of those Acts have been found insufficient for their purposes, and great abuses have prevailed in many societies established under the authority of such Acts; Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That no society hereafter to be formed in *England* or *Wales* or the members thereof shall be entitled to the benefits or subject to the provisions of the said Acts unless such society shall have been constituted under the authority and according to the provisions of this Act.

33 Geo. 3. c. 54.

35 Geo. 3. c. 111.

43 Geo. 3. c. 111.

49 Geo. 3. c. 125.

Future Societies to conform to this Act.

The Rules and Tables of Friendly Societies to be confirmed at the General Quarter Sessions.

II. And be it further enacted, That when any number of persons in *England* or *Wales* shall intend to form under the authority of this Act a friendly society or institution, whereby it is intended to provide by contribution on the principle of mutual insurance for the maintenance or assistance of the contributors thereto their wives or children in sickness infancy advanced age widowhood or any other natural state or contingency whereof the occurrence is susceptible of calculation by way of average, it shall be lawful for such persons to make application by memorial signed as herein-after mentioned to the justices assembled at the general quarter sessions of the peace or any adjournment thereof in and for the county riding or place of separate jurisdiction wherein such society

is about to be established, for a confirmation and approval of the rules of such intended institution and of the tables of payments and allowances to be adopted therein; and that if such justices or any committee by them appointed consisting of not less than three justices (of whom two shall be a *quorum*) shall after due examination thereof be satisfied that the contingencies for which it is intended to provide, whether specifically named in this Act or not, are such as according to the true meaning and intent of this Act are fit to be provided for by such society, and shall deem the rules and tables of such society, either in the form in which they shall have been originally exhibited or with such omissions additions or alterations as may be made therein by the said justices with the consent of the persons proposing to be trustees of such society, to be fit and proper, and shall be satisfied that the formation of such society will be useful and beneficial, regard being had to the existence of any other society already formed under wholesome rules within the same district for the like purposes; the said rules and tables so confirmed or amended shall be deposited and enrolled according to the provisions of the said first-mentioned Act, and a copy thereof, authenticated by the signature of two or more justices, shall be delivered to the trustees of such society, and shall thenceforward become the rules of such society and shall be binding on all parties concerned: Provided always, That such justices shall not confirm and allow any tables of payments or benefits or any rules dependent upon or connected with the calculation thereof, until it shall have been made appear to such justices that the said tables and rules are such as have been approved by two persons at the least, known to be professional actuaries or persons skilled in calculation, as fit and proper according to the most correct calculation of which the nature of the case will admit.

Proviso as to Tables of Payments and Benefits.

III. And be it further enacted, That it shall and may be lawful for the justices assembled at the general quarter sessions of the peace for any county or riding in *England* or *Wales* from time to time to make and publish such general rules for the formation and government of friendly societies or institutions under the authority of this Act as to such justices may appear fit, and to require that the rules of all societies thereafter established within such county or riding shall be made conformable to such general rules; and it shall also be lawful for such justices to declare that the rules proposed for the formation of such friendly societies or institutions which shall be made conformable to such general rules may be exhibited to and confirmed by any two or more justices holding petty sessions within the division wherein any such society is to be established; and in such case and subject always to the direction of such general rules published as aforesaid such justices in petty sessions shall have the like powers and their proceedings shall be subject to the like provisions in regard to the formation of friendly societies as are by this and the former Acts established in respect of the justices assembled in general or quarter sessions.

Quarter Sessions may publish general Rules, and Petty Sessions may act thereon.

IV. And be it further enacted, That every memorial presented to the justices as aforesaid shall set forth the names residence and occupation of three persons at the least, of whom the majority shall be substantial householders assessed to the relief of the poor upon a sum not less than fifty pounds, which persons shall be trustees of such society or institution; and the signature of such intended trustees shall be affixed to such memorial; and such society shall from time to time in such manner as may have been prescribed by the rules thereof elect other persons duly qualified as aforesaid to fill such vacancies as may occur among such trustees; and in case such vacancy shall continue for more than three months so as to reduce the number of trustees below the number of three, it shall be lawful for the remaining trustees to nominate one other fit person to be the third trustee: Provided always, That no trustee shall be removed from his office without his own consent, except with the approbation of two or more justices in petty session assembled.

Appointment of Trustees.

V. And be it further enacted, That when and as often as the trustees and persons having under the rules of any such society the management

Provision for Alteration of Rules.

No. VI.
59 Geo. III. c. 128.

thereof shall be desirous of making any alteration in or addition to the rules and tables allowed and deposited as aforesaid, it shall be lawful for them to make further application by memorial to the justices in general or petty sessions as aforesaid, such memorial being signed by the trustees or the major part thereof, and such application shall be dealt with by the said justices according to the provisions hereinbefore contained with respect to the allowance or alteration of the rules and tables proposed at the first establishment of such society in as far as the same are applicable thereto.

Treasurer and other Officers.

VI. And be it further enacted, That the trustees of each such society shall appoint one fit person or more to be treasurer or treasurers of such society; and shall require from such treasurer or treasurers such securities as the said trustees may from time to time deem necessary and proper; and no bond or other security to be given to or on account of any such society or in pursuance of this Act shall be charged or chargeable with any stamp duty whatever.

Exemption from Stamp Duties.

Property of Societies vested in Trustees.

VII. And be it further enacted, That all monies goods chattels and effects whatever and all securities for money or other obligatory instruments and evidences or muniments and all other effects whatever, and all rights or claims belonging to or had by such institution shall be vested in the trustee or trustees of such institution for the time being for the use and benefit of such institution, and the respective depositors therein their respective executors or administrators according to their respective claims and interests; and after the death or removal of any trustee or trustees shall vest in the succeeding trustee or trustees for the same estate and interest as the former trustee or trustees had therein, and subject to the same trusts without any assignment or conveyance whatever, except the transfer of stocks and securities in the public funds of *Great Britain;* and also shall for all purposes of action or suit, as well criminal as civil in law or in equity in anywise touching or concerning the same, be deemed and taken to be and shall in every such proceeding (where necessary) be stated to be the property of the person or persons appointed to the office of trustee or trustees of such institution for the time being in his her or their proper name or names without further description; and such person or persons shall and they are hereby respectively authorised to bring or defend or cause to be brought or defended any action suit or prosecution criminal as well as civil in law or equity touching or concerning the property right or claim aforesaid of or belonging to or had by such institution; and such person or persons so appointed shall and may in all cases concerning the property right or claim aforesaid of such institution sue and be sued plead and be impleaded in his her or their proper name or names as trustee or trustees of such institution without other description; and no such suit action or prosecution shall be discontinued or abate by the death of such person or persons or his or their removal from the office of trustee or trustees, but the same shall and may be proceeded in by the succeeding trustee or trustees in the proper name or names of the person or persons commencing the same, any law usage or custom to the contrary notwithstanding; and such succeeding trustee or trustees shall pay or receive like costs as if the action or suit had been commenced in his or their name or names for the benefit of or to be reimbursed from the funds of such institution.

Restrictions upon Dissolution of Society, or Division of Funds.

VIII. And be it further enacted, That it shall not be lawful to dissolve any society or institution established under the authority of this Act; nor shall any division of the funds thereof be made otherwise than in the ordinary course of proceeding according to the rules confirmed as aforesaid, without the consent of the trustees or the major part of them: Provided always, That no such consent of trustees shall be given, unless and until it shall have been certified by two or more professional actuaries or persons skilled in calculation as aforesaid, which persons shall have been approved as such by the justices as aforesaid, that according to the most correct calculation of which the case will admit, the interest of all the contributors to such institution and of all persons having claims thereon

in possession or expectancy are by the proposed scheme of dissolution or division fairly dealt with and secured.

IX. And be it further enacted, That the rules of every society or institution formed under the authority of this Act shall specify the place or places at which it is intended such society or institution shall hold its meetings, and shall contain provisions with respect to the powers and duties of the members at large, and of such committees or officers as may be appointed for the management of the affairs of such society, subject always to the provisions of this Act with respect to the appointment and duties and powers of the trustees; and such society or institution shall not be subject to the provisions and restrictions of the said Act of the thirty-third year of his present Majesty's reign, as to the appointment of committees or otherwise, with respect to the management of such society or institution.

Place of Meeting, and Powers and Duties of Members to be specified in the Rules.

X. And be it further enacted, That it shall be lawful for any society or institution established under the authority of this Act from time to time to subscribe the whole or any part of the funds of such society or institution into the funds of any institution which shall have taken the benefit of an Act of the fifty-seventh year of the reign of his present Majesty, intituled *An Act to encourage the Establishment of Banks for Savings in* England, subject to the several provisions contained in the said last-mentioned Act, or of an Act passed in the last session of Parliament to amend the said Act.

Funds may be subscribed into Saving Bank;

57 Geo. 3. c. 130.

58 Geo. 3. c. 48.

XI. And be it further enacted, That it shall be lawful for any society or institution established under the authority of this Act to pay directly into the Bank of *England* any sum or sums of money, not being less than fifty pounds, to the account of the commissioners for the reduction of the national debt, upon the declaration of the trustees of such society or institution or any two or more of them, that such monies belong exclusively to the society or institution for which such payment is intended to be made, whether such monies shall have been deposited therein before the passing of this Act or thereafter shall be deposited therein; and the cashier or cashiers of the Bank of *England* are hereby required to receive all such monies, and place the same into a new and separate account to be raised in the name of the said commissioners for the time being in the books of the Bank of *England*, to be denominated 'The Fund for the 'Society or Institution established at *A.* in the county of *B.* under an 'Act of the fifty-ninth year of the reign of King *George* the Third;' and all the clauses and provisions of an Act passed in the fifty-seventh year of his present Majesty's reign, (intituled *An Act to encourage the Establishment of Banks for Savings in* England,) with respect to the accounts of banks for savings, and the regulation of debentures certificates or orders concerning the same, shall be applicable to the monies so paid into the Bank of *England* under the authority of this Act, as if the same had been repeated therein.

or into Bank of England on Debentures;

XII. Provided always and be it further enacted, That nothing in this Act contained shall extend to prevent the trustees of any society formed under the authority thereof from investing any part of the funds of such society in any public stocks or funds established by the authority of Parliament, or from laying out the same upon real security at interest.

or vested in public Funds, or on real Security.

XIII. And be it further enacted, That the trustees of any society or institution established under the authority of this Act shall not be liable to make good any deficiency which may arise in the funds of such society, unless such persons shall have respectively declared by writing under their hands, deposited and registered in like manner with the rules of such society, that they are willing to be answerable; and it shall be lawful for each of such persons or for such persons collectively, to limit his her or their responsibility to such sum as shall be specified in any such instrument in writing.

Limitation of Responsibility of Trustees.

XIV. And be it further enacted, That when the trustees of any society formed under the authority of this Act shall be apprehensive that the funds of such society together with the sum (if any) for which persons having formed the said society shall have made themselves responsible as aforesaid, are likely to prove insufficient to make all the payments be-

Proceedings of the Trustees in case of Deficiency of Funds.

No. VI.
59 Geo. III. c. 128.

coming due to the several parties interested according to the rules of such society, the said trustees shall forthwith state their apprehension and the grounds thereof to the justices in general or quarter sessions, or if the rules of such institution shall have been originally confirmed at the petty sessions then to the justices in such petty sessions; and it shall be lawful for such justices upon a full statement of the accounts and proceedings of such society, which the said trustees are hereby directed to furnish at the requisition of such committee, to make such order for the adjustment of the claims of all parties interested in the funds of such society as to them may appear fair and equitable: Provided always, That it shall be lawful for any person or persons who may think himself herself or themselves aggrieved by any such order of justices in petty sessions, to appeal therefrom to the justices assembled in the quarter sessions next ensuing after the date of such order, whose decision shall be final and conclusive.

In Cases of Complaint of Widows and Children Justices to have Jurisdiction.

XV. And whereas by the said Act of the forty-ninth year of his present Majesty's reign, no sufficient provision is made for the relief of widows and children of deceased members of friendly societies who may be aggrieved by the officers or members of the societies of which their husbands or parents were members; Be it further enacted, That justices of the peace shall have the like power and jurisdiction in cases of complaint made by or on behalf of such widows and children as they have under the said last-mentioned Act or under this Act in regard to the members of such societies themselves.

33 Geo. 3. c. 54. and 49 Geo. 3. c. 125. applicable to this Act.

XVI. And be it further enacted, That all the provisions of the said Acts of the thirty-third and forty-ninth years of the reign of his present Majesty as to matters for which no other provision is made by this Act, shall be deemed so far as the same are not repugnant to this Act, applicable to all societies and institutions formed under the authority of this Act.

[No. VII.] 1 Geo. IV. c. 29.—An Act to enlarge the Powers of the Governors of the Foundling Hospital in *Dublin*.—[*30th June* 1820.]

1 Geo. 4. c. 29.
54 Geo. 3. c. 128.

WHEREAS by an Act made in the fifty-fourth year of the reign of his late Majesty King *George* the Third, intituled *An Act to amend the several Acts for regulating the Foundling Hospital in* Dublin, it was amongst other things enacted, that it should be lawful for the governors of the said hospital or any three or more of them to make orders for suspending and to suspend and refuse in the cases and under the restrictions therein mentioned the admission of any children or child into the said hospital: And whereas it is expedient to enlarge the powers of the said governors in that respect on the terms hereinafter provided: Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act it shall and may be lawful to and for the governors of the said Foundling Hospital or any three or more of them from time to time to make orders for suspending and to suspend for and during such time or times period or periods as they shall from time to time think proper the admission of infants into the said hospital; and also to make orders for refusing and to refuse the admission into the said hospital of any infant or of any class or description of infants at their discretion, or for annexing any condition or conditions which they shall think proper to the admission of any particular infant or of all infants or of any class or description of infants into the said hospital; any thing in the said recited Act or any other Act or Acts contained, or any law usage or custom to the contrary notwithstanding.

Governors empowered to make Orders for suspending Admissions in all Cases, and under any Conditions, in their Discretion.

Such Orders not valid, until approved by Lord Lieutenant.

II. Provided always, and be it enacted, That no such order as aforesaid which shall relate to all infants or to any class or description of infants shall be deemed to be good valid and effectual or to be established as a rule, until the same shall have been approved of by the lord lieutenant or other chief governor or governors of *Ireland* for the time being.

PART VI.

CLASS XIX.

*Game.**

* In the following Series of the Statutes relating to Game, I have availed myself of the assistance of Mr. Chitty's Treatise on that subject. The Statutes of which the Contents are given seem to include all those of a general nature, which are referrible to the existing practice of the Law, with the exception of those relating to Game Certificates; and which, in conformity with the general principle of the Work, as not comprising matters of Revenue, I have thought it requisite to exclude. But several of the more ancient Statutes, of which the Titles only are here inserted, are still in force, although they have fallen into disuse.

[No. I.]—CHARTA FORESTÆ.—As made A. D. 1215, and confirmed by 9 Henry III. 28 Edw. I. and 52 Hen. III. c. 5.

[No. II.] Stat. Merton, 20 Hen. III. c. 11. A. D. 1235.

[Lords shall not imprison Offenders at their own Wills, for Trespasses in their Parks and Ponds.]

[No. III.] Stat. Westm. 1. 3 Edw. I. c. 20. A. D. 1275.

[The Punishment for Offences committed in Parks and Ponds.]

[No. IV.] Stat. de Malefactoribus in Parcis, Anno 21 Edw. I. Stat. 2. A. D. 1293.

[No. V.] Ordinatio Forestæ, made 33 Edw. I. Stat. 5. Anno Dom. 1305.

[No. VI.] Ordinatio Forestæ, made Anno 34 Edw. I. Stat. 5. Anno Dom. 1306.

[No. VII.] 1 Edw. III. Stat. 1. c. 8. A. D. 1327.

[How he shall be used that is taken for any Offence in the Forest. Stat. 3 Ed. I. 20. St. 9 H. 3. st. 2. c. 10. 11. & 16.—A Remedy for the Prisoner if the Warden of the Forest will not bail him. St. 7 R. 2. c. 4. Regist. p. 80. Carth. 78.]

[No. VIII.] 1 Edw. III. Stat. 2. c. 1. Anno Dom. 1327.

[A Confirmation of Charters, Perambulation of Forests. Charters hereof. 16 Car. 1. c. 15.—Using of Woods within the Forest.—The Temporalities of Bishops.]

[No. IX.] 34 Edw. III. c. 22. Anno Dom. 1360.

[In what sort one Man's Hawk taken up by another shall be used.—Stealing a Hawk. Enforced by 37 Edw. 3. c. 19. which makes the Offence Felony.]

[No. X.] 37 Edw. III. c. 19. Anno Dom. 1363.

[How each Person shall use a Hawk of another Man's that he taketh up.—The concealing or embezzling of a Hawk is Felony]

[No. XI.] 7 Richard II. Anno Dom. 1383.

[General Protection of Juries relating to Forests.—None shall be taken or imprisoned by the Officers of the Forest without Indictment, &c. Regist. fo. 80. 9 H. 3. st. 2. c. 10. 11. & 16. 1 Edw. 3. st. 1. c. 8]

[No. XII.] 13 Richard II. Stat. 1. c. 13. A. D. 1389.—None shall hunt but they which have a sufficient Living.

[No. XIII.] 1 Hen. VII. c. 7. A. D. 1485.—An Act shewing the Penalty for hunting in the Night, or with Disguising.

[No. XIV.] 11 Hen. VII. c. 17. A. D. 1494.—The Forfeiture for taking of Fesants or Partridges, or the Eggs of Hawks or Swans.

[No. XV.] 19 Hen. VII. c. 11. Anno Dom. 1503.—For Deerhayes and Buckstalls.

[No. XVI.] 14 and 15 Hen. VIII. c. 10. A. D. 1523.—The Penalty for unlawfully hunting the Hare.

[No. XVII.] 25 Hen. VIII. c. 11. A. D. 1533.—To avoid destroying of Wild-fowl.

[No. XVIII.] 5 Eliz. c. 21. A.D. 1562.—An Act for punishing of unlawful taking of Fish, Deer, or Hawks.

[I. How Persons for unlawful Fishing, hunting in a Park, and taking of Hawks or Hawks' Eggs out of another's Ground, shall be punished]

[III. The Penalty for breaking of a Park, and hunting of Deer. 3 Jac. I. c. 13. Co. pl. 361.—The Penalty for taking of Hawks or Hawks' Eggs out of another's Ground]

[IV. A Park inclosed without Licence of the Queen, &c.]

The other Sections are inserted ante, title *Fish.*

[No. XIX.] 23 Eliz. c. 10. A. D. 1581.—An Act for the Preservation of Pheasants and Partridges.

[No. XX.] 1 or 2 James I. c. 27. A. D. 1604.—An Act for the better Execution of the Intent and Meaning of former Statutes made against shooting in Guns, and for the Preservation of the Game of Pheasants and Par-

tridges, and against the destroying of Hares with Hare-pipes, and tracing Hares in the Snow.*

No. XX.
1 or 2 James I. c. 27.

'FORASMUCH as there be divers good and necessary laws and statutes which do inflict and impose divers great and heavy penalties punishments and forfeitures upon such as should with any guns nets cross-bows or other instruments or engines spoil or destroy the game of pheasants partridges hearn mallard and such like, and upon such as kill or destroy hares with hare-pipes cords or other engines, or should kill any hare by tracing and coursing them with dogs in the snow: And nevertheless of late years the several games above-mentioned have been more excessively and outrageously spoiled and destroyed than hath been in former ages, especially by the vulgar sort and men of small worth making a trade and a living of the spoiling and destroying of the said games, who are not of sufficiency to pay the said penalties in the said statutes mentioned, nor to answer the costs and charges of any that should inform and prosecute against them in any of his said Majesty's courts of record at *Westminster* upon any of the said penal laws and statutes; by reason whereof few suits have been attempted upon the said laws, and for the said forfeitures whereby the good thereby meant and hoped hath not succeeded, and thereby great scarcity of the said games in all or in the most parts of this realm hath followed, and presently is and so is like to be if some remedy be not in that behalf provided.'

1 or 2 James I. c. 27.

Penalties for destroying of Pheasants, Partridges, Pigeons, Hares.

II. Be it therefore enacted by the authority of this present Parliament, That all and every person and persons which from and after the first day of *August* next following shall shoot at kill or destroy with any gun cross-bow stone-bow or long-bow any pheasant partridge house-dove or pigeon hearn mallard duck teal widgeon grouse heath-cock moregame or any such fowl or any hare; or after the said first day of *August* shall take kill or destroy any pheasant partridge house-dove or pigeon with setting-dogs and nets, or with any manner of nets snares engines or instruments whatsoever; or shall take the eggs of any pheasant partridge or swans out of the nests, or willingly break spoil or destroy the same in the nests: or after the said first day of *August* shall trace or course any hares in the snow, or at any time take or destroy any hares with any hare-pipes cords or with any such instruments or other engines; and the same offence or offences being proved by the confession of the party or by the testimony of two sufficient witnesses upon oath before two or more justices of peace of the same county city or town corporate wherein the offence shall be committed or the party offending apprehended, shall be by the said justices of peace for every such offence committed to the common gaol of the said county city or town corporate where the offence shall be committed or the parties apprehended, there to remain for three months without bail or mainprize unless that the said offender do or shall forthwith upon the said conviction pay or cause to be paid to the churchwardens of the said parish where the said offence shall be committed or the party apprehended, to the use of the poor of the said parish the sum of twenty shillings for every pheasant partridge house-dove pigeon hearn mallard duck teal widgeon grouse heath-cock moregame or any such fowl; and for every egg of pheasant partridge or swan and for every hare which any and every such person and persons so offending and convicted as aforesaid shall take kill or willingly destroy, contrary to the true purport and true meaning of this statute; or after one month after his commitment, together with two sufficient sureties, become bound by recognisance in the sum of twenty pounds a-piece to the King's Majesty's use his heirs and successors, with condition that he the said party so offending shall not at any time hereafter shoot at kill take or destroy any of the said games before-mentioned by any of the means aforesaid: which said recognisances shall be taken by any two or more justices of peace of the said county city or town corporate where the offender shall

Burn, v. 1. 485 and 490.

One Witness sufficient. 7 Jac. 1. c. 11. s. 8.

* Query whether this Act, as to killing Game, be repealed by 22 and 23 Car. 2. c. 25. Rex v. Harris, 7 T. R. 238.

No. XX.
1 or 2 James I. c. 27.

be so imprisoned as aforesaid, and shall be returned to the then next quarter session and there to remain of record as other recognisances taken for the peace.

The Penalty for keeping a Greyhound, a Setting-dog, with Nets to take Pheasants, &c.

III. And for the better preservation of deer hares and other the games aforesaid, be it further enacted by the authority aforesaid, That all and every person and persons which from or after the said first day of *August* shall have or keep any greyhound for coursing of deer or hare or setting-dog or dogs or net or nets to take pheasants or partridges, except such person or persons which shall be seised in their own right or in the right of their wives of lands tenements or hereditaments of the clear yearly value of ten pounds by the year or more over and above all charges and reprises of some estate of inheritance; or of lands tenements or hereditaments in his own right or in right of his wife for term of life or lives of the yearly value of thirty pounds over and above all charges and reprises; or be possessed of goods or chattels to the full value of two hundred pounds to his own use; or be the son or sons of any knight or of any baron of Parliament or of some person of higher degree or the son and heir apparent of any esquire; and being thereof convicted as aforesaid, shall by the said justices of the peace be committed and imprisoned in manner and form as in and by this present Act before is expressed specified and declared; except such person and persons so offending and thereof convicted as aforesaid do forthwith pay or cause to be paid to the churchwardens of the said parish where the said offence shall be committed or the party apprehended to the use of the poor of the said parish the sum of forty shillings of good and lawful money of *England*.

The Penalty for selling or buying to sell again Deer, Hare, Partridge or Pheasant.

IV. And be it further enacted by the authority aforesaid, That every person and persons which at any time after the said first day of *August* shall sell or buy to sell again any deer hare partridge or pheasant (except partridge and pheasants reared and brought up in house or houses or brought from beyond the seas), shall forfeit for every deer so bought and sold forty shillings; for every hare ten shillings; and for every partridge ten shillings; and for every pheasant so to be bought and sold twenty shillings: of all which forfeitures the one moiety shall be to him or them that will sue for the same by bill indictment or information, and the other moiety to the poor of the parish where the said offence or offences shall be committed.

No Punishment by any former Law where it is inflicted by this.

Which Officers may hear and determine these Offences.

V. And be it further enacted by the authority aforesaid, That no person or persons shall or may after the said first day of *August* be punished by force of any former statute or law for any of the said offences for which by force of this law any punishment shall be inflicted: And that all justices of assize in their several circuits and all justices of the peace in their general quarter sessions, and any two justices of peace or more together out of any sessions shall and may by force of this present Act have full power and authority to examine hear punish and determine all offences to be committed against this present statute, and to administer oaths as aforesaid and perform and execute all and every act and thing fit or requisite for the due execution of this present Act.

Who may take Pheasants and Partridges with Nets, and when.

Repealed by 7 Jac. 1. c. 11. sect. 6.

VI. Provided always, That it shall and may be lawful for every person or persons which have or shall have free warren, and to and for every lord of a manor and to every freeholder which is or shall be seised in his own right or in the right of his wife of lands tenements or hereditaments to the clear yearly value of ten pounds or more by the year over and above all charges or reprises of some estate of inheritance; or of lands tenements or hereditaments in his own right or in the right of his wife for term of life or lives of the yearly value of thirty pounds over and above all charges and reprises; or be or which shall be worth in goods or chattels two hundred pounds; by him or themselves or by his or their menial servants (sufficiently authorised from his or their master for that purpose) to take pheasants and partridges in the day-time only with nets in and upon his and their own or his and their masters free warren manor and freehold or on any part of them betwixt the Feast of *St. Michael* the Archangel and the Feast of the Birth of

our Lord God yearly; any thing in this law to the contrary notwithstanding.

No. XX. 1 or 2 James I. c. 27.

VII. And be it also further enacted by the authority aforesaid, That it shall and may be lawful to and for every person and persons keeping any hawk or hawks which at the general quarter sessions of the county (where he and they shall dwell) shall be licensed to shoot hail-shot in hand-guns or birding-pieces at crow chough pye rook ring-dove jey or smaller birds for hawks-meat only, to shoot and kill hawks-meat according to the said licence only: so that such party so to be licensed do at the same quarter sessions wherein he shall be licensed, become bound to the King's Majesty by recognisance in twenty pounds not to shoot at any the fowl or game at which shooting is prohibited by this law; and so that he or they shall not shoot in any hand-gun or other gun within six hundred paces of any hernery nor within one hundred paces of any pigeon-house nor in any park forest or chase whereof the party so licensed or his master is or shall not be the owner keeper or governor: for which licence and recognisance the clerk of the peace is to take only twelve pence and no more. This law to continue to the end of the first session of the next Parliament.—[3 *Car.* I. c. 4. Continued until the end of the first session of the next Parliament and farther continued by 16 *Car.* I. c. 4.]

Licence to shoot in a Gun for Hawks-meat.

Continuance of this Statute.

[No. XXI.] 3 James I. c. 13. A.D. 1605.—An Act against unlawful hunting, stealing of Deer and Conies.

[No. XXII.] 7 James I. c. 11. A.D. 1609.—An Act to prevent the Spoil of Corn and Grain, by untimely Hawking, and for the better Preservation of Pheasants and Partridges.

7 James I. c. 11.

The Penalty for killing of Pheasants or Partridges at undue Times, or by undue Means.

1 Jac. 1. c. 27. *Burn*, v. 1. 490.

'WHEREAS in the first session of this present Parliament there was a 'good law made amongst other things for the preservation of the 'game of pheasants and partridges, which hath not yielded that good 'success as was by the same law hoped for and intended, through dis-'orderly and unseasonable hawking whereby great quantity of corn and 'grain hath been and is not only uncharitably spoiled and destroyed 'but great numbers of pheasants and partridges thereby killed and 'spoiled before they be either fit to be hawked at or to be used for food 'or diet.'

II. For the preventing of both which inconveniences and mischiefs, Be it enacted by the authority of this present Parliament, that all and every person or persons whatsoever which at any time after the end of this present session of Parliament doth or shall hawk at destroy or kill any pheasant or pheasants partridge or partridges with any kind of hawk or hawks dog or dogs by colour of hawking, between the first of *July* and the last day of *August*, and the same offence or offences being proved by the confession of the party or by the testimony of two sufficient witnesses upon oath before two or more justices of the peace of the said county city or town corporate wherein the offence shall be committed or the party offending apprehended, shall be by the said justices of the peace for every such offence committed to the common gaol of the said county city or town corporate where the offence shall be committed or the parties apprehended; there to remain for one whole month without bail or mainprize unless that the said offender do or shall forthwith upon the said conviction pay or cause to be paid to the churchwardens of the said parish or unto the overseers of the poor or some of them where the said offence shall be committed or the party apprehended, to the use of the poor of the same parish the sum of forty shillings for every such hawking at any pheasant or partridge, and twenty shillings for every such pheasant or partridge which any and every such person and persons so offending and convicted (as aforesaid) by himself his hawk or hawks dog or dogs,

No. XXII.
7 James I. c. 11.

shall take kill or destroy contrary to the true purport intent and meaning of this present statute.

He that is punished by this Law shall be excused for any other.

III. Provided always and be it enacted by the authority aforesaid, That if any person or persons shall be at any time hereafter convicted and punished by virtue of this law, that then the party so punished shall not for the same offence be eftsoons called in question, and punished by virtue of any other law touching or concerning the like offences.

Within what Time an Offender shall be accused.

IV. Provided also, That no offenders shall be impeached or punished by virtue of this Act unless he or they be accused as delinquent before the said justices of peace within six months next after the said offence or offences committed or done.

V. 'And whereas by a proviso in the said statute contained it is provided, That it shall and may be lawful to and for every person and persons which have or shall have free warren, and to and for every lord of a manor and to every freeholder which is or shall be seised in his own right or in the right of his wife of lands tenements or hereditaments to the clear yearly value of ten pounds or more by the year over and above all charges and reprises of some estate of inheritance; or of lands tenements or hereditaments in his own right or in the right of his wife for term of life or lives of the yearly value of thirty pounds over and above all charges and reprises; or be or which shall be worth in goods or chattels two hundred pounds; by him or themselves or by his or their menial servants (sufficiently authorised from his or their master for that purpose) to take pheasants and partridges (in the day-time only) with nets in and upon his and their own or his or their master's free warren manor and freehold or on any part of them betwixt the Feast of *St. Michael* the Archangel and the Feast of the Birth of our Lord God yearly; any thing in the said law to the contrary notwithstanding: by colour of which liberty so given by the said proviso it is found by experience that the said games of pheasants and partridges have been and still are likely to be much spoiled and destroyed by many mean tenants and freeholders against the will of the lords or owners of inheritance of the said lands and tenements.'

A Repeal of a Branch of the Statute of 1 or 2 Jac. 1. c. 27.

VI. Be it therefore enacted by the authority aforesaid, That the said proviso and every clause article and thing therein contained shall be from the end of this present session of Parliament utterly repealed frustrate and made void; any thing in the said proviso contained to the contrary notwithstanding.

Who may take Pheasants and Partridges, where and when.

VII. And that it shall and may be lawful for every person or persons which have or shall have free warren and to and for every lord of a manor and to and for every freeholder which is or shall be seised in his own right or in the right of his wife of lands tenements and hereditaments to the clear yearly value of forty pounds or more by the year over and above all charges and reprises of some estate of inheritance; or of lands tenements and hereditaments in his own right or in the right of his wife for term of life or lives of the yearly value of fourscore pounds over and above all charges and reprises; or which shall be worth in goods or chattels four hundred pounds; by him or themselves or by his or their menial and household servants (sufficiently authorised from his or their master for that purpose) to take pheasants and partridges (in the day-time only) in and upon his and their own of his and their master's free warren manor and freehold as aforesaid or on any part of them betwixt the Feast of *St. Michael* the Archangel and the birth of our Lord God yearly; any thing in the said law before mentioned to the contrary notwithstanding.

VIII. 'And whereas the said games of pheasants and partridges are excessively spoiled and destroyed by base persons of bad and mean condition making a trade and living of the spoiling and destroying of the said games who are not of sufficiency to pay any penalty in any former statute mentioned nor to answer the costs and charges of any that should inform and prosecute against them in any of his Majesty's courts: By reason whereof and for that the said offenders are hardly discovered

No XXII.
7 James I.
c. 11.

'and seldom or never found offending in the presence of divers witnesses, 'so that it is very hard to convict them by the testimony of more wit-'nesses than one by reason that they spoil and destroy the said games 'secretly and for the most part in the night-time and do carry such phea-'sants and partridges as they so destroy likewise by night to cities 'and market-towns to be sold.' Be it therefore further enacted by the authority aforesaid, That all and every person or persons which from and after the first day of *September* next shall take kill or destroy any pheasant or partridge with setting-dogs and nets or otherwise with any manner of nets snares or engines, and the same offence or offences being proved by the confession of the party or by the testimony of one sufficient witness upon oath before two or more justices of the peace of the same county city or town corporate wherein the offence shall be committed or the party offending apprehended, shall be by the said justices of peace for every such offence committed to the common gaol of the said county city or town corporate where the offence shall be committed or the party apprehended, there to remain for three months without bail or mainprize, unless that the said offender shall forthwith pay or cause to be paid to the churchwardens or overseers of the poor of the said parish where the said offence shall be committed the sum of twenty shillings for every pheasant or partridge which any and every such person or persons so offending shall take kill or destroy as aforesaid contrary to the purport and true meaning of this statute, and further to become bound by recognisance in the sum of twenty pounds to his Majesty his heirs and successors, with condition that he the said party so offending shall not at any time thereafter take kill or destroy any pheasant or partridge, which said recognisance shall be taken by any one or more justices of peace of the said county city or town corporate where the said offence shall be committed as aforesaid and shall be returned to the then next quarter sessions and there to remain of record as other recognisances taken for the peace

Penalty for taking any Pheasants or Partridges with Setting-dogs, Nets, &c.

IX. And be it further enacted, That every constable and headborough in every county city town corporate and other place where they shall be sworn officers shall and may by virtue of this present Act (bringing with them to that purpose a lawful warrant under the hands of two justices of the peace of the county city liberties or town corporate) have full power and authority to enter into and search the house or houses of any person or persons (other than such as by this present Act are allowed to take pheasants and partridges with nets as aforesaid) being suspected to have any setting-dogs or nets for the taking of pheasants and partridges; and wheresoever they shall find any such setting dogs or nets the same to take carry away and detain kill destroy and cut in pieces as things prohibited by this Act and forfeited to such of the said officers as shall find out and take the same as aforesaid.

Officers may search the Houses of Persons suspected to offend.

X This law to continue unto the end of the first session of the next Parliament and no longer (5 *Car* 1. c 4 continued until the end of the first session of the next Parliament, and farther continued by 16 *Car* 1 c. 4)

Continuance of this Act.

[No. XXIII.] 7 James I. c. 13. A D. 1609.—An Act for the Explanation of one Statute made in the Second Session of this present Parliament, intituled 'An Act against unlawful hunting and stealing of Deer and Conies.'

[No. XXIV.] 16 Charles I. c 16. A. D. 1640.—An Act for the Certainty of Forests, and of the Meets, Meers, Limits, and Bounds of the Forests.

No. XXV. 13 Car. II. sess. 1. c. 10.

[No. XXV.] 13 Charles II. Sess. 1. c. 10. A. D. 1661. —An Act to prevent the unlawful coursing, hunting, or killing of Deer.

[No. XXVI.] 22 and 23 Charles II. c. 25. A. D. 1670. —An Act for the better Preservation of the Game, and for securing Warrens not inclosed, and the several Fishings of this Realm.

22 & 23 Car. II. c. 25.

'WHEREAS divers disorderly persons laying aside their lawful trades and employments do betake themselves to the stealing taking and killing of conies hares pheasants partridges and other game intended to be preserved by former laws with guns dogs tramels lowbels hays and other nets snares hare-pipes and other engines, to the great damage of this realm and prejudice of noblemen gentlemen and lords of manors and others owners of warrens.'

Who may appoint Game-keepers.

II. For remedy thereof, be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and the Commons in this present Parliament assembled, and by the authority of the same, That all lords of manors or other royalties (1.) not under the degree of an esquire may from henceforth by writing under their hands and seals authorise one or more game-keeper or game-keepers within their respective manors or royalties, who being thereunto so authorised may take and seize all such guns bows greyhounds setting-dogs lurchers or other dogs to kill hares or conies, ferrets tramels lowbels hays or other nets hare-pipes snares or other engines for the taking and killing of conies hares pheasants partridges or other game, as within the precinct of such respective manors shall be used by any person or persons who by this Act are prohibited to keep or use the same: And moreover, That the said game-keeper or game-keepers or any other person or persons being thereunto authorised by warrant under the hand and seal of any justice of the peace of the same county division or place (2.) may in the day-time search the houses outhouses or other places of any such person or persons by this Act prohibited to keep or use the same, as upon ground shall be suspected to have or keep in his or their custody any guns bows greyhounds setting-dogs ferrets coney-dogs or other dogs to destroy hares or conies, hays tramels or other nets lowbels hare-pipes snares or other engines aforesaid, and the same and every or any of them to seize detain and keep to and for the use of the lord of the manor or royalty where the same shall be so found or taken or otherwise to cut in pieces or destroy as things by this Act prohibited to be kept by persons of their degree.

What such Game-keepers may seize.

Power to search Houses.

What Persons are prohibited the keeping of Guns, Bows, Dogs, &c.

III. And it is hereby enacted and declared, That all and every person and persons not having lands and tenements or some other estate of inheritance in his own or his wife's right of the clear yearly value (3.) of one hundred pounds (4.) per annum or for a term of life (5.) or having

5 Mod. 307. 1 Salk. 21.

(1.) The Lord of a Hundred or Wapentake cannot, as such, appoint a Gamekeeper. Lord Aylesbury *v.* Pattison. Doug. 28.

(2.) A Justice himself is not authorised to search. Semble, Briggs *v.* Evelyn. 2 H. B. 114.

(3.) If the Premises are subject to a Mortgage, the Interest of which is more than the annual Value, the party is not qualified: but Possession is prima facie Evidence of Property, and the Defendant must be presumed to be the entire owner: the task lies upon the other party to make proof to the contrary. Wetherell *v.* Hall, Cald. 230. A Declaration before the Commissioners of Income Tax, that the party had not an Income of 100*l.* a year, and that certain Interest was payable out of his Estate, is Evidence of want of Qualification, in opposition to Evidence of his having an Estate worth 100*l.* a year. Rex *v.* Clarke, 8 T. R. 220.

(4.) By 13 Richard II. Laymen not having Lands of forty shillings a year, and Clergymen not advanced to ten pounds a year, are prohibited to hunt, &c. on pain of a year's imprisonment. By 1 James, c. 27. any person keeping Greyhounds for coursing of Deer or Hare, or Setting-dog or Net to take Pheasants or Partridges, ex-

lease or leases of ninety-nine years or for any longer term of the clear yearly value of one hundred and fifty pounds (6.) other than the son and heir apparent of an esquire (7.) or (8.) other person of higher degree, (9.) and the owners and keepers of forests parks chases or warrens, being stocked with deer or conies for their necessary use in respect of the said forests parks chases or warrens are hereby declared to be persons by the laws of this realm not allowed to have or keep for themselves or any other person or persons any guns bows greyhounds setting-dogs ferrets coney-dogs lurchers hays nets lowbels hare-pipes gins snares or other engines aforesaid; but shall be and are hereby prohibited to have keep or use the same. (10.)

No Person shall kill Conies in a Warren not inclosed.

IV. 'And forasmuch as divers warrens and grounds not inclosed are 'used for the breeding and keeping of conies in several parts of this king-'dom and that sundry dissolute and disorderly persons have been much 'encouraged to kill and destroy the conies in such warrens and grounds 'not inclosed in the night-time, for that the same is not prohibited or 'punishable by the statutes in that behalf made and provided which ex-'tend only to the stealing and killing of conies in warrens or grounds 'inclosed:' For remedy thereof, Be it enacted and declared, That if any person or persons shall at any time enter wrongfully into any warren or ground lawfully used or kept for the breeding or keeping of conies (although the same be not inclosed) and there shall take chase or kill any conies against the will of the owner or occupiers thereof, not having lawful title or authority so to do, and shall be thereof lawfully convicted in manner hereafter following, the parties so offending shall yield to the party grieved treble damages and costs and suffer imprisonment by the space of three months, and after till they shall find sureties for their good abearing.

Forfeiture.

No Person shall in the Night kill any Conies on the Borders of any Warren, except the Owner of the Ground.

V. 'And forasmuch as divers idle and disorderly persons living near 'unto warrens, have of late time used to kill and take the conies upon 'the borders of the same, and under colour thereof do oft time enter into 'the said warrens and there take and kill conies in the night-time when 'they cannot easily be discovered:' It is further provided and enacted, That no person or persons shall at any time hereafter kill or take in the night-time any conies upon the borders of any warrens or other grounds lawfully used for the breeding or keeping of conies; excepting only such person or persons as shall be owner of the soil or lawful occupier or possessor of the ground, or any person or persons employed by him her or them, whereupon such conies shall be so killed or taken; upon pain that every person so offending and being thereof lawfully convicted in manner hereafter following, shall give the party or parties injured such recompence or satisfaction for his or their damages and within such time as shall be

The Penalty.

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cept he be seised of an Estate of Inheritance of the yearly value of 10*l.* above all charges and reprises, or 30*l.* a year of a Lives Estate, or Goods of the value of 200*l.*, or be the Son of a Knight or Lord, or the Son and heir apparent of an Esquire, is to be committed to gaol for three months, unless he pay 20*s.* By 3 James, c. 13. Restrictions with respect to Deer and Conies are imposed upon persons not having Hereditaments of 40*l.* a year, nor worth in goods 200*l.* By 7 James I. c. 11. a Freeholder of 40*l.* a year of Inheritance, or Lives Estate of 80*l.* or worth in goods 400*l.* may take pheasants and partridges in the day-time in his own free warren.

(5.) A Life Estate is to be coupled with Leasehold, whereof 150*l.* a year is necessary to constitute a qualification. Lowndes *v.* Lewis, Caldec, 188. A Church Living is a Life Estate, S. C.

(6.) An Estate of 150*l.* for 99 years, if three Lives shall so long live, is sufficient. Earl Ferrers *v.* Hinton, 8 T. R. 506.

(7.) The meaning of this Term is not very precisely defined. A person is not constituted an Esquire by being so called in a Commission from the Lord Lieutenant of a County, as Captain in a Corps of Volunteers. Talbot *v.* Eagle, 1 Taunt. 510.

(8.) This means the Son of some other person of higher degree, and not such person himself, who is not qualified merely as being of higher degree than an Esquire: per Lord Mansfield, Ashurst, and Buller, Willes contra: Jones *v.* Smart, 1 T. R. 44. Rex *v.* Utley, cited ibid.

(9.) Colonels, Sergeants at Law, and Doctors in the three learned Professions, are of higher rank than Esquires. 1 Bl. Com. 405: but a Diploma of a Scotch University does not give such precedence in England. Jones *v.* Smart, ub supra.

(10.) For the Penalties for Sporting without being qualified, and the requisite Proceedings for recovering such Penalties, see Stat. 5 Anne, c. 14. post.

No. XXVI.
22 & 23 Car. II. c. 25.

appointed by the justice before whom such offender shall be convicted, and over and above pay down presently unto the overseers, for the use of the poor of the parish where such offence shall be committed, such sum of money not exceeding ten shillings, as the said justice shall think meet: And if such offender or offenders do not make recompence or satisfaction to the said party or parties injured and also pay the said sum to the poor in manner and form aforesaid, then the said justice shall commit the said offender or offenders to the house of correction for such time as the said justice shall think fit, not exceeding one month.

Imprisonment.

No Person shall kill or set Snares for Hares, &c.

VI. 'And whereas divers idle and disorderly persons have of late time 'taken up in practice to take and kill hares and conies with snares hare-'pipes and other engines in or near woods warrens or other places;' It is hereby further enacted and declared by the authority aforesaid, That if any person or persons from and after the first day of *May* which shall be in the year of our Lord God one thousand six hundred and seventy-one shall be found or apprehended setting or using any snares hare-pipes or other like engines and shall be thereof convicted in manner following; the person or persons so offending shall be liable to the penalties in the immediate foregoing clause of this Act in manner as aforesaid.

The Penalty.

No Person shall fish in the Pond of any Person without his Consent, with Nets or other Engines. See 2 *Bur.* 682.

VII. 'And whereas divers idle disorderly and mean persons do from 'time to time betake themselves to the stealing taking and killing of fish 'out of ponds pools motes stews and other several waters and rivers, to 'the great damage of the owners thereof:' Be it therefore further enacted by the authority aforesaid, That if any person or persons from and after the first day of *May* which shall be in the year of our Lord God one thousand six hundred seventy and one, shall at any time use any casting-net thief-net drag-net tramel shove-net or other net whatsoever, or any angle hair noose troll or spear, or shall lay any wears pots nets fish-hooks or other engines, or shall take any fish by any means or device whatsoever, in any river stew pond mote or other water as aforesaid, or shall be aiding or assisting thereunto without the licence or consent of the lord or owner of the said water (11.) and be thereof or of any other the offence or offences mentioned in this Act (12.) convict by confession of the offender or by oath of one sufficient witness within one month after the offence committed, before any justice of the peace of such county riding division or place wherein such offence as aforesaid shall be committed, which oath the said justice of peace is hereby empowered to administer: every such offender or offenders in stealing taking or killing fish shall for every such offence give to the party or parties injured, such recompence or satisfaction for his or their damages and within such time as the said justice shall appoint not exceeding treble damages; and over and above pay down presently unto the overseers for the use of the poor where the said offence shall be committed such sum of money not exceeding ten shillings as the said justice shall think meet: And in default of payment as aforesaid, the same to be levied by distress and sale of the offender's goods by warrant under the hand and seal of such justice before whom the offender shall be convicted, rendering the overplus if any be; and for want of distress the offender or offenders shall be committed to the house of correction for such time as the justice shall think fit not exceeding one month; unless the party offending shall enter into bond with one competent surety or sureties to the party injured, not exceeding the sum of ten pounds, never to offend in like manner.

The Penalty.

To be levied by Distress.

Justice of the Peace may cut the Nets, &c.

VIII. And be it further enacted, That it shall and may be lawful for every justice of peace before whom such offender as aforesaid shall be convict, to take out in pieces and destroy all and every such angles spears hairs nooses trolls wears pots fish-hooks nets or other engines whatsoever wherewith such offender as aforesaid shall be taken or apprehended.

The Party grieved may appeal to the Quarter Sessions.

IX. Provided always and be it further enacted by the authority afore-

(11.) A Conviction quashed (amongst other defects) for not stating the taking to be without the consent of the owner. Rex *v.* Mallinson, 2 Bar. 679.

(12.) There is nothing in the subsequent part of the Clause to give effect to these words.

said, That if any person or persons shall find him or themselves aggrieved by any judgment which shall happen to be given by any justice of the peace by virtue of this Act, it shall and may be lawful for such person or persons so aggrieved to appeal unto the justices of peace in their general or quarter sessions which shall happen to be held next after such judgment given, who or the greater number of them are hereby authorised and empowered to give such relief and make such order therein as shall be agreeable to the tenor of this Act; and such judgment order or determination as by the said justices shall be made upon the said appeal shall be final to all intents and purposes whatsoever, if no title to any land royalty or fishery be therein concerned.

A Saving of all Royalties and Prerogatives to his Majesty and Forest Laws.

X. Provided always and be it further enacted, That neither this Act nor any thing therein contained shall extend or be construed to extend to the taking away or abridging of any royalty or prerogative royal of his Majesty, nor to abridge change or alter any part of the forest laws of this realm, but all and every such laws rights powers royalties and prerogatives royal shall remain and be in as full and ample force and virtue as the same ought to have been in if this Act had not been made; any thing herein-before contained to the contrary notwithstanding.

[No. XXVII.] William & Mary, c. 10. A. D. 1691. —An Act for the more effectual Discovery and Punishment of Deer Stealers.

[No. XXVIII.] 4 & 5 William & Mary, c. 23.—An Act for the more easy Discovery and Conviction of such as shall destroy the Game of this Kingdom.

4 & 5 Will. & Mary, c. 23.

'WHEREAS divers good and necessary laws have been heretofore made for the better preservation of the Game, notwithstanding which laws, or for want of the due execution thereof, the game of this kingdom hath been very much destroyed by many idle persons, who afterwards betake themselves to robberies burglaries or other like offences and neglect their lawful employments;' For remedy whereof, and the more effectual preservation of the game,

Laws against destroying Game to be executed.

II. Be it enacted by the King's and Queen's most excellent Majesties, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That all and every law and statute now in force for the better preservation of the game and every article and thing in them contained, and not herein and hereby altered or repealed, shall be duly put in execution according to the tenor of the said laws and under the penalties therein contained to be raised levied and disposed of as in and by the said laws are directed.

Constable by Warrant may search suspected Houses.

III. And be it further enacted by the authority aforesaid, That for the more easy conviction of such offenders as by the said laws are prohibited, every constable headborough and tythingman being thereunto authorised by warrant of one or more justices of the peace under his or their hands and seals shall and may have full power and authority and is hereby required to enter into and search (in such manner and with such power as in and by an Act for the more effectual discovery and punishment of deer-stealers, made in the third and fourth years of their present Majesties reign, is provided in case of venison or skin of any deer or toyls) the house or houses outhouses or other places belonging to such houses or suspected persons not qualified as aforesaid: And in case any hare partridge pheasant pigeon fish fowl or other game, (1.) shall (upon such Owner cannot give good Account, he shall be convicted.

3 & 4 Will & Mary, c. 10.

If Hare, &c. be found, and Burn, v. 1. 485.

(1.) Rabbits killed in a private Warren are not Game within this Act 1 Ld Raym. 151.

No. XXVIII. 4 & 5 Will. & M. c. 23.

search or otherwise) be found, the offender shall be carried before some justice of peace of the same county riding or division; and if such person do not give a good account how he came by such hare partridge pheasant pigeon fish fowl or other game, such as shall satisfy the said justice, or else shall not in some convenient time to be set by the said justice produce the party of whom he bought the same, or some other credible person to depose upon oath such sale thereof, that then such person not giving such good account, nor producing any such witness as aforesaid, shall be convicted by the said justice of such offence, and upon such conviction shall forfeit for every hare partridge pheasant pigeon fish fowl or other game any sum not under five shillings and not exceeding the sum of twenty shillings, to be ascertained by the said justice; one moiety thereof to be paid to the informer, and the other moiety to the poor of the parish where the offence was committed; the same to be levied by distress and sale of the offender's goods by warrant under the hand and seal of the justice before whom the offender shall be convicted, rendering the overplus if any be; and for want of distress the offender or offenders shall be committed to the house of correction for any time not exceeding one month and not less than ten days, there to be whipt and kept to hard labour; and in case any person or persons not qualified by the laws of this realm so to do, shall have keep or use any bows greyhounds setting-dogs ferrets coney-dogs hayes lurchers nets tunnels lowbels hare-pipes snares or any other instruments for destruction of fish fowl or other game, and shall be thereof convicted upon such evidence as aforesaid, the person or persons so convicted shall forfeit and be subject to the same pains and penalties as are hereby directed to be inflicted upon the person or persons who shall be found to have any hare partridge pheasant pigeon fish fowl or other game as aforesaid; and if any person or persons so produced or charged with the said offence shall not before the same justice give such evidence of his innocence as aforesaid, he shall be convicted thereof in the same manner as the person or persons first charged therewith is hereby directed to be, and so from person to person until the first offender shall be discovered.

Penalty upon Conviction, &c.

Person having Greyhounds, &c. how convicted and punished.

Game-keepers may oppose Persons in the Night. 21 Ed. 1. st. 2. 22 & 23 Car. 2. c. 25.

IV. And to the end all keepers and game-keepers mentioned in and duly authorised according to the Act made in the reign of the late King *Charles* the Second may be indemnified in the execution of the said office, Be it enacted, That all lords of manors or other royalties or any person or persons authorised by them as game-keepers, shall and may within their respective manors or royalties oppose and resist such offender in the night-time in the same manner, and be equally indemnified for so doing as if such fact had been committed within any ancient chase park or warren inclosed whatsoever.

Persons not Owners of Fisheries, may not keep Nets, &c.

V. 'And whereas divers idle disorderly and mean persons have and 'keep nets angles leaps piches and other engines for the taking and killing of fish out of the ponds waters rivers and other fisheries to the 'damage of the owners thereof;' Be it therefore enacted by the authority aforesaid, That no person or persons whatsoever shall and may at any time or times from and after the five-and-twentieth day of *March*, which shall be in the year of our Lord one thousand six hundred ninety-three, have or keep any net angle leap piche or other engine for the taking of fish, other than the makers and sellers thereof for their better conveniency in the sale of the same, and other than the owner and occupier of any river or fishery for the time being; and moreover that it shall and may be lawful not only for the owner or occupier of any river or fishery, and also for all and every other person and persons by him or them for that purpose appointed, to seize detain and keep to his and their own use and uses all and every net angle leap piche and other engine which he or they shall find used or laid or in the custody or possession of any person or persons whatsoever, fishing in any river or fishery whatsoever without the consent of the owner or occupier thereof, but also for any person or persons whatsoever (being thereunto authorised by warrant under the hand and seal of any justice of the peace of the same county division

Owner of Fishery may seize Nets, &c. used in his Fishery, &c. Burn, v. 1. 495.

borough town corporate or any other place) in the day-time to search the houses outhouses or other places of any person or persons hereby prohibited to have or keep the same, as shall be suspected to have or keep in his or their custody or possession any net angle leap piche or other engine aforesaid, and the same and every or any of them to seize detain and keep to his and their own use and uses or otherwise to cut in pieces or destroy, as things by this Act prohibited to be kept by persons of their degree.

No. XXVIII. 4 & 5 Will. & M. c. 23.

See 4 *Ann.* *c.* 21. 9 *Ann.* *c.* 26. 1 *Geo.* 1. *st.* 2. *c.* 18. 5 *Geo.* 1. *c.* 18. 23 *Geo.* 2. *c.* 26. *s.* 7. 26 *Geo.* 2. *c.* 9. 30 *Geo.* 2. *c.* 21 and 30. And 33 *Geo.* 2. *c.* 27.

VI. Provided always, That this Act or any thing therein contained shall not extend or be construed to extend to abridge any fisherman or his apprentice or apprentices, lawfully authorised to fish in navigable rivers or waters with lawful nets and engines; but that every of them shall and may (according to the laws and orders made and to be made and settled for the good order rule and government of such navigable rivers and waters) use the trade of fishing, as they lawfully might have done before the making of this Act; any thing in this Act contained to the contrary in any wise notwithstanding.

Fishermen, &c. lawfully authorized, excepted.

VII. 'And whereas divers offenders duly convicted do commonly procure writs of *certiorari* to remove such convictions into superior courts at *Westminster* in hopes thereby to discourage and weary out such persons injured by great delays expences and incertainties;' Be it therefore enacted, That no *certiorari* shall be allowed to remove any conviction made or other proceeding of for or concerning any matter or thing in this Act, unless the party or parties against whom such conviction shall be made shall before the allowance of such *certiorari* become bound to the person or persons prosecuting in the sum of fifty pounds, with such sufficient sureties as the justice or justices of the peace before whom such offender was convicted shall think fit, with condition to pay unto the said prosecutors (within one month after such conviction confirmed or *procedendo* granted) their full costs and charges to be ascertained upon their oaths; and that in default thereof it shall be lawful for the said justice and justices and others to proceed to the due execution of such conviction in such manner as if no *certiorari* had been awarded.

No Certiorari, except Security be given to pay Costs.

VIII. Provided, That where any offender shall be punished by force of this Act he shall not be prosecuted nor incur the penalty of any other law or statute for the same offence.

Not to be punished twice for same Offence.

IX. Provided always, That if any action bill plaint or suit shall at any time after the said five-and-twentieth day of *March* be commenced or brought against any person or persons whatsoever for or by reason of any matter or thing which he or they shall do in pursuance of this Act, it shall and may be lawful to and for the person or persons so sued or prosecuted to plead the general issue and give this Act or any other special matter in evidence; and if the verdict shall pass with the defendant or defendants in such action or the plaintiff or plaintiffs become nonsuit or suffer any discontinuance thereof, that in any such case such defendant or defendants shall have his or their treble costs which he or they shall have sustained in defence of such action or suit for which the said defendant or defendants shall have the like remedy as in other cases where costs by the laws of this realm are given to the defendants.

General Issue.

Treble Costs.

X. 'And whereas great mischiefs do ensue by inferior tradesmen, (2.) 'apprentices and other dissolute persons (3.) neglecting their trades and for coming on another Man's Ground, to hunt, &c.

Tradesmen, &c liable to Costs See 2 Wils. 70.

(2.) In Buxton *v.* Mingay, 2 Wils. 70. the Court were equally divided, whether a Surgeon and Apothecary, not qualified to kill Game, was an inferior Tradesman within this Statute.

(3.) The Huntsman of a Gentleman of Fortune, hunting with his Master's Hounds and by his orders, but not in his presence, is not a dissolute person within this clause. Pallant *v.* Roll, 2 Bl. Rep. 900. A qualified person cannot be deemed an inferior Tradesman. Rex *v.* George, 6 Mod. 40. In Wickham *v.* Walter, Barnes, 125. the Jury decided that the Defendant (a Clothier and Alehouse-keeper) was an inferior Tradesman, and the Court awarded costs accordingly. It is not necessary to allege that a person stated to be an inferior Tradesman was also a dissolute person. R. *v.* Clipp, 2 Str. 711.

No. XXVIII. 4 & 5 Will. & M. c. 23.

'employments, who follow hunting fishing and other game to the ruin 'of themselves and damage of their neighbours;' For remedy whereof be it enacted by the authority aforesaid, That if any such person as aforesaid shall presume to hunt hawk fish or fowl, (unless in company with the master of such apprentice duly qualified by law,) such person or persons shall be subject to the penalties of this Act, and shall or may be sued and prosecuted for their wilful trespass in such their coming on any person's land, and if found guilty thereof the plaintiff shall not only recover his damages thereby sustained but his full costs of suit; any former law to the contrary notwithstanding.

Penalty upon burning Ling, &c. upon Heaths.

XI. Provided always and be it enacted, That for the better preserving the red and black game of grouse commonly called heath-cocks or heath-polts, no person whatsoever on any mountains hills heaths moors forests chaces or other wastes shall presume to burn, between the second day of *February* and twenty-fourth of *June*, any grig ling heath furze goss or fern, upon pain that the offender or offenders shall be committed to the house of correction for any time not exceeding one month and not less than ten days, there to be whipt and kept to hard labour.

[No. XXIX.] 5 Anne, c. 14. A.D. 1706.—An Act for the better Preservation of the Game.

5 Anne, c. 14.

All Laws for Preservation of the Game to continue in Force, &c.

Made perpetual by 9 *Ann*, c. 25. which contains other Regulations.

WHEREAS several laws have been already enacted for the better 'preservation of the Game, and by experience been found not 'sufficient to prevent destroying the Game by reason of the multitude of 'higlars and other chapmen, which give great encouragement to idle 'loose persons to neglect their lawful employments to follow and destroy 'the same;' For remedy whereof and the more effectual preservation of the game, Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That all and every of the laws now in being for the better preservation of the game shall continue remain and be in the same force, not hereby repealed and altered.

Higlar, Carrier, &c. not to have any Hare, or buy or sell Hare, &c. on Penalty of 5*l*. See 3 *Bur.* 1720. 1 *J.* c. 27. s. 4.

II. And be it further enacted by the authority aforesaid, That if any higlar chapman carrier innkeeper victualler or alehouse-keeper shall from and after the first day of *May* one thousand seven hundred and seven have in his or their custody or possession any hare pheasant partridge moor heath-game or grouse, or shall buy sell or offer to sell (1.) any hare pheasant partridge moor heath-game or grouse, every such higlar chapman innkeeper victualler alehouse-keeper or carrier (unless such game in the hands of such carrier be sent up by person or persons qualified to kill the game) shall upon every such offence be carried before some justice of the peace for the county riding city or town corporate or liberties where the said offence is committed; and upon view or upon the oath of one or more credible witnesses shall be convicted of the same, shall forfeit for every hare pheasant partridge moor heath-game or grouse the sum of five pounds, one half to the informer and the other half to the poor of the parish where the offence was committed; the same to be levied by distress and sale of the offender's goods by warrant under the hand and seal of the justice or justices of the peace before whom such offender or offenders shall be convicted, rendering the overplus (if any be) the charge of distraining being first deducted; and for want of distress the offender or offenders be committed to the house of correction for the first offence for the space of three months without bail or mainprize, and for every such other offence for the space of four months; provided that such conviction (2.) be made within three months after such offence committed; and that *if any certiorari* shall be allowed to remove any conviction made

To be levied by Distress, &c.

(Q. *No?*)

(1.) As to what shall be deemed an Offering to Sale, see 28 Geo. II. c. 12. (post.) sec. 1. and the case of Warneford *v.* Kendall, 10 E. 19.

(2.) The Conviction cannot be after the three months, although the delay was occasioned by the Hearing being adjourned at the request of the Defendant. Rex *v.* Tolley, 3 E. 467.

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or other proceeding of or concerning any matter or thing in this Act into any of the courts at *Westminster* upon any pretence whatsoever, unless the party or parties against whom such conviction shall be made shall, before the allowance of such *certiorari*, become bound to the person or persons prosecuting the same in the sum of fifty pounds, with such sufficient securities as the justice or justices of the peace before whom such offender shall be convicted shall think fit, with condition to pay unto the prosecutors within fourteen days after such conviction or *procedendo* granted their full costs and charges to be ascertained upon their oaths; and that in default thereof it shall be lawful for the said justice or justices or others to proceed for the due execution of such conviction in such manner as if no such *certiorari* had been awarded.

Encouragement to Destroyers of the Game to make Discoveries.

III. And for the better discovery of such higlar chapman carrier inn-keeper alehouse-keeper and victualler as shall offer to buy or sell any hare pheasant partridge moor heath-game or grouse; Be it further enacted by the authority aforesaid, That from and after the said first day of *May* any person that shall destroy sell or buy any hare pheasant moor heath-game or grouse, and shall within three months make discovery of any higlar chapman carrier inn-keeper alehouse-keeper or victualler that hath bought or sold or offered to buy or sell or had in their possession any hare pheasant partridge moor heath-game or grouse, so as any one shall be convicted of such offence in manner as aforesaid, such discoverer to be discharged of the pains and penalties hereby enacted for killing or selling such game as aforesaid, shall receive the same benefit or advantage as any other informer shall be entitled to by virtue of this Act for such discovery and information.

Persons not qualified to keep Greyhounds, &c. and destroy the Game, to forfeit 5*l.* to be levied by Distress and Sale, &c. See 1 Bur. 148.

IV. And be it enacted by the authority aforesaid, That if any person or persons not qualified by the laws of this realm so to do (3.) shall keep (4.) or use (5.) any greyhounds, (6.) setting-dogs, (7.) hayes lurchers

(3.) It is fully settled that a general Averment of the Defendant not being qualified is sufficient in an Action on this Statute. Bluet *v.* Needs, Com. Rep. 522; and that such general Allegation is not sufficient in a Conviction; but that the several Qualifications enumerated in 22 and 23 Charles II. c. 25. must be negatively set out in the Conviction. R. *v.* Jarvis, 1 Bur. 148. And in Rex *v.* Earnshaw, 15 E. 456. the Conviction was set aside for not expressly negativing that the Defendant was seised in right of his Wife; although the Conviction was according to the form of Burn, drawn by Lord Ashburton, and which had been usually pursued. In Rex *v.* Crowther, 1 T. R. 125. the Court seemed to think that it was not necessary that the *Evidence* should negative every particular Qualification; but the Conviction was quashed on another point; and the general question, whether upon a Conviction it was necessary to give any Evidence of want of Qualification, was not entered into. Such Evidence is admitted not to be necessary in the case of an Action. In R. *v.* Stone, 1 East. 636. the Question, whether Evidence must be given of the want of Qualification in case of a Conviction, came directly before the Court of King's Bench, when the Judges were equally divided; Lord Kenyon and Grose J. being of opinion that some Evidence upon that point must be given; Lawrence J. and Le Blanc J. on the contrary, that the proof of Qualification lay on the Defendant. Mr. Paley, in his Treatise on Convictions, p. 139, after noticing this Case, and the Opinions which were expressed in some preceding cases bearing upon the subject, and referring to the precedent in Burn, in which the Qualifications are negatived by the Evidence, judiciously observes, that the considerations which he had stated may suggest the prudence at least of adhering to a form so long used, till a conclusive determination shall have set the Question at rest. Lord Kenyon, in giving his Opinion in R. *v.* Stone, observed, "It is said to be impossible for the Prosecutor's Witnesses to give negative Evidence of the want of Qualification; but I do not see why it may not be done. A Witness may give general Evidence of it from his belief: he may know the Defendant, and know that to all appearance he may not be a man of substance. Evidence may be given of his condition in life, to raise a reasonable presumption against his having any of the necessary Qualifications." It is also necessary to advert to his Lordship's observation upon another part of the Section, in R. *v.* Davis, 6 T. R. 177. "Here was evidence tending to prove the offence: we have no authority to examine further, and see whether the conclusion drawn by the Magistrate be or be not the inevitable conclusion from the Evidence. It is sufficient in Convictions if there were such Evidence before the Magistrate, as, in an Action, would be sufficient to be left to a Jury."

(4.) The mere keeping a Lurcher is sufficient to incur the Penalty, without using. R. *v.* Filer, 1 Str. 426. So of Harepipes and such like, which are peculiarly fitted or disposed for killing Game: per Curiam, Rex *v.* Gardiner, Andr. 255. 2 Str. 1098.; but it is otherwise with respect to a Gun,

tunnells or any other engines to kill and destroy the game, (8.) and shall be thereof convicted upon the oath of one or two credible witnesses, (9.)

which is not an instrument so appropriated to killing Game, as that it is criminal for a person to have one in his custody only: Ruled ibid. In Rex *v.* Huntley, Cald. 175. it seems to have been thought that the mere keeping a Greyhound was sufficient; but in Read *v.* Phelps, 15 East. 271. in an Action for keeping a Setting-dog, there being no Evidence of the Dog, which was still young, having been used for the purpose of killing Game, it was ruled that the Action could not be supported; and Lord Ellenborough said, that according to the argument of the Plaintiff, the keeping of a dog, not for the purpose of destroying Game, would be Evidence of a keeping in order to destroy it.

(5.) In Rex *v.* King, 1 Sess. Cas. 88. Parker Ch. J. said that walking about with a Gun, with intent to kill game, is Evidence of using the instrument for that purpose. In Rex *v.* Davis, 6 T. R. 177. the Witness swore that the Defendant did keep and use a Gun with intent to kill and destroy Game, and that he was satisfied that he did so, from hearing a Gun go off, and observing that it was fired by the Defendant, who was walking about with that apparent intent; and the Conviction upon this Evidence was held good: Vi. the Observation of Lord Kenyon, supra note 3. In Rex *v.* Thomson, 2 T. R 18. a Deposition by the Witness in general terms, according to the Precedent in Burn, that the Defendant *did keep and use a Gun to kill and destroy the Game*, was supported as being an established Form, although objectionable upon principle; and the Decision was adhered to in Rex *v.* Pearse, 9 East. 358. In Rex *v.* Clarke, 8 T. R. 220. the Court expressed their approbation of the manner in which the Conviction was drawn up, wherein the Magistrates had not simply stated in the words of the Act of Parliament, that the Defendant had kept and used, &c. but had set forth the particular Evidence of his having done so; viz. that the Witness had seen him course and kill a Hare with the said Greyhound; and had also set forth all the Evidence for and against the Defendant, upon the Question of his Qualification: and they recommended this as a precedent to be followed in future. See the precedent framed on the same principle, Burn Game L. and said to be drawn by Lord Ashburton; but see also Rex *v.* Earnshaw, supra, note 3.

(6.) A Conviction for keeping and using *a Dog called* a Greyhound, was held good; and Lord Mansfield said that he thought a Dog called a Greyhound was positive enough, and must mean the Dog of that species generally known in this country. Rex *v.* Hartley, Caldw. 175. In Rex *v.* Earnshaw, a Conviction for keeping and using a Dog called a Lurcher was held to be sufficient.

(7.) The Act only extends to such Dogs as are particularly mentioned, therefore in Hooker *v.* Wills, 2 Str. 1126. it was held that an Action could not be maintained for the Penalty for using a *Hound* to destroy the Game. So in Reason *v.* Little, Com. Rep. 576. where the Action was for using a Dog.

(8.) In Rex *v.* Newman, Loft, 178. upon an application for an Information against a Justice for convicting two unqualified persons who were out coursing with a qualified person, the Court were of opinion, that the two unqualified persons were protected by being in company with the qualified one; but dismissed the application, the Justice paying costs. The subjecting the Justice to costs seems to have been rather a hard measure, whatever may have been the Law upon the principal question; as there seems to have been no ground for imputing any thing more than a mere erroneous judgment, which would not have been sufficient without more to have supported the Information if it had been brought to trial. In a case before Lawrence J. at Stafford, cited in the later Editions of Burn, it was held that though a qualified person may take his Servant to assist him to kill Game, he cannot qualify him to kill it, neither will his presence protect an unqualified person, not being his Servant, who goes to take the amusement of coursing. But if such person take an active part by beating across the fields, or on open lands, and join in the diversion in the same manner with a qualified person, he is as much liable to the Penalties as if no qualified person was present; but from a note in 15 East. 462. it appears that there is reason to think that that case was governed by special circumstances. In Rex *v.* Taylor, 15 East. 460. it was held that a Huntsman attending his Master was not liable to the Penalties. The general question came more fully before the Court in Lewis *v.* Taylor, 16 East. 49. where the Defendant was out coursing with a qualified man, and took an active part in the sport by beating the Bushes, and took up the Game after it had been killed; and it was ruled that he was not liable to the Penalty of the Statute. Lord Ellenborough said, "There is no Evidence against this Defendant of using a Greyhound for killing the Game. This is not a solitary amusement, and there is nothing to prevent a qualified person from taking others to assist him in the pursuit of the Game, and he is the person using the Dogs; the others have no other use of them than as his Servants, and contemplating with him the pleasures of the chase. If indeed, an unqualified man had used his own Greyhounds for the purpose of sporting, though in the same company with a qualified person, that case would admit of a different consideration. The picking up of the Hare after it is killed, is no using of the Dogs to kill Game." The other Judges agreed; and Bailey J. said, "The Defendant neither kept the Dog nor was it under his controul at the time it was used to kill the Hare." The Legislature seem to have had in view the variation of the judicial opinions above noticed. For by the Schedule of Assessed Taxes, 52 Geo. III. c. 93. a Duty is imposed upon any person who shall use any Dog, &c. or shall take or kill or assist in any manner in the taking or killing any Game: which enactment, by 54 Geo. III. c. 141. is repealed as to persons

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by the justice or justices of the peace where such offence is committed as aforesaid, the person or persons (10.) so convicted shall forfeit the sum of five pounds (11.) one-half to be paid to the informer, and the other half to the poor of the parish where the same was committed; (12.) the same to be levied by distress and sale of the offender's goods, by warrant under the hand and seal of such justice or justices before whom such person or persons shall be convicted as aforesaid; and for want of such distress, (13.) the offender or offenders shall be sent to the house of correction for the space of three months for the first offence, and for every such other offence four months; and that it shall and may be lawful to and for any of her Majesty's justices of the peace in their respective counties ridings cities towns corporate or liberty, and the lords and ladies of his her or their or any of their respective manors within the said manors to take away any such hare pheasant partridge moor heath game or grouse or any other game, from any such higlar chapman inn-keeper victualler or carrier or any other person or persons not qualified to kill the same, and shall be found in their custody or possession; and likewise to take away such dogs (14.) nets or other engines (15.) which shall be in the power or custody of any person or persons not qualified by the laws to keep the same to their own proper use, without being accountable to any person or persons for the same; and that it shall and may be lawful for any lord or lady of his or her respective lordship or manor, by writing under his or her hand and seal, to empower his or her gamekeeper or gamekeepers upon his or her own lordship or manor as aforesaid, (16.) to kill hare pheasant partridge or any other game whatsoever; (17.) but if the said gamekeeper shall under colour or pre-

Justices or Lords of Manors, &c. may take away any Hare, &c. from Person not qualified; and also their Dogs, Nets, &c.

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aiding and assisting, provided it be in the presence and for the use of another person who has obtained a Certificate in his own right; and who therein shall use his own Dog, Gun, &c.

The Declaration in an Action on this Clause usually avers, that the Defendant used a Gun, &c. being an engine for the destruction of Game, to kill and destroy the Game: but in Avery *v.* Hoole, Cowp. 825. it was held that the Allegation that he "used a Gun, being an engine for the destruction of Game," though bad on Demurrer was cured by Verdict, and should be construed as averring that the engine was used for the destruction of Game.

(9.) The Defendant may be convicted on his own Confession, although not so expressed in the Act. R. *v.* Gage, 1 Str. 546.

(10) There can be only one Penalty against several persons for using a Greyhound at one time, as it is only one offence. Rex *v.* Bleasdale, 4 T. R. 809.

(11.) A person can only incur one Penalty in the same day, whatever number of Hares, &c. he may kill. Q. *v.* Mathews, 10 Mod. 26. Marrott *v.* Shawe, Ave R. 274. And a person can only be convicted in one Penalty for keeping and using a Gun, and also a Dog, on the same day. R. *v.* Lovet, 7 T. R. 152. Several Penalties for distinct Offences may be included in one Conviction: Rex *v.* Swallow, 8 T. R. 284.

(12.) If a party, being in one Parish, shoot into another, the Offence is committed in the Parish in which he stands. R. *v.* Alsop, Sho. 339.

(13.) An Action of Trespass was maintained against a Justice, for committing a person who had Effects which might have been distrained, immediately upon Conviction, without endeavouring to levy the Penalty on his Goods. Hill *v.* Bateman, 2 Str. 710.

(14.) A Magistrate who convicts an unqualified person of killing Game under the Stat. 5 Ann, c. 14. and causes his Dog to be brought for the purpose of seizing it, may order the Dog to be killed without any formal adjudication of Seizure. Kingsworth *v.* Bretton, 5 Taunt. 416. S.C. 1 Marsh, 106.

(15.) A Justice of Peace may take a Gun used by an unqualified person, Devensh. *v.* Mertuas, 7 Mod. 215., but not the Gun of a Gamekeeper, although he be not within his own Manor. Rogers *v.* Carter, 2 Wils. 286. he cannot enter a a house to search for Engines, &c. See Briggs *v.* Evelyn, 2 H. B. 114.

(16.) The Courts will not permit the Title or Boundaries of a Manor to be tried in an Action for Penalties on the Game Laws, provided there is any colourable Title; but it is otherwise when there is no pretence of Title, and there has been no other Exercise of Right than the granting of the particular Deputation. Calcraft *v.* Gibbs, 4 T. R. 681. and Hawkins *v.* Bailey, and Blunt *v.* Grimes, there cited. And upon the new Trial in Calcraft and Gibbs, 5 T. R. 19. it appeared that the person making the appointment had purchased an Estate within the Manor from the Lord, who agreed that he should have the Deputation of the Manor; this was held not to be such a colour of Title as would excuse the Gamekeeper. Lord Kenyon said, "A man cannot convey to another the power of appointing a Gamekeeper, without a conveyance also of the Manor itself. Such a power is a mere emanation of the Manor, and is inseparable from it. It is a mere shadow, accompanying the substance."

(17.) Semble, that a Lord of a Manor, although not qualified by Estate, may kill Game within his Manor, but not elsewhere. See Mallock *v.* Eastley, 7 Mod. 482; and Cases referred to, Chitty, 42.

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tence of the said power and authority to kill or take the same for the use of such lord or lady and afterwards sell or dispose thereof to any person or persons whatsoever without the consent or knowledge of the lord or lady of such manor or manors that hath given such power or authority in manner as aforesaid, and shall be thereof convicted upon the complaint of such lord or lady of any manor, and upon the oath of one or more credible witnesses before any one or more of her Majesty's justices of the peace as aforesaid, upon such conviction such gamekeeper shall be committed to the house of correction for the space of three months, and there to be kept to hard labour. And this Act shall remain and be in force for the space of three years from the first day of *May* one thousand seven hundred and seven, and from thence to the end of the next sessions of Parliament and no longer.

This Act made perpetual by 9 Ann. c. 25. as altered by that Act.

V. [No heath ling or brakes to be burnt in Forest of Sherwood without licence of owner.—None to buy fern ashes on penalty.—Justices to issue their warrants for offenders.]

[No. XXX.] 9 Anne, c. 25. A. D. 1710.—An Act for making the Act of the Fifth Year of her Majesty's Reign, for the better Preservation of the Game, perpetual, and for making the same more effectual.

9 Anne, c. 25. 5 Anne, c. 14. made perpetual.

'WHEREAS the Act made in the fifth year of her Majesty's reign, 'intituled *An Act for the better Preservation of the Game*, will ex'pire at the end of this present session of Parliament unless the same be 'continued: And whereas the said Act hath been found to be an useful 'law for the preservation of the game of this kingdom;' Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That the said recited Act and all the clauses matters and things therein contained shall stand in full force and virtue and be continued and deemed and taken to be a perpetual law subject nevertheless to the additions or alterations hereinafter in this Act contained: That is to say, Whereas by the said recited Act any lord or lady of a manor might appoint several gamekeepers in the same manor and every one of the gamekeepers so appointed might kill any game in the same manor; for the preventing therefore of the destruction of the game of this kingdom, which may happen by appointing several gamekeepers in the same manor with authority to kill the game therein; Be it further enacted by the authority aforesaid, That from and after the first day of *May* one thousand seven hundred and eleven no lord or lady of a manor shall make constitute or appoint above one person to be a gamekeeper within any one manor with power or authority to kill or destroy the game thereof; and that the name of such person so to be authorised to kill the game shall from time to time be entered with the clerk of the peace for the time being of the county riding or division wherein such manor doth lie, such entry to be made and viewed without fee or reward, and a certificate thereof to be granted by the clerk of the peace upon payment of one shilling for the same; and in case any other gamekeeper whose name shall not be so entered as aforesaid who shall not be otherwise qualified by the laws of this kingdom to kill game shall presume to kill any hare pheasant partridge moor heath game or grouse, or if any gamekeeper or gamekeepers or other person or persons whatsoever, not being qualified in his own right to kill game, shall sell or expose to sale any hare pheasant partridge moor heath game or grouse, the respective offender or offenders herein shall for every such offence incur such forfeitures pains and penalties as are inflicted by the said recited Act upon higlars carriers innkeepers or victuallers for buying or selling of game; such forfeitures to be recovered by such means and in such manner and form and within such time and to such uses as are prescribed by the said Act; any thing in the said recited Act or in any other law or statute to the contrary thereof in any wise notwithstanding.

Lords of Manors shall appoint but one Gamekeeper in one Manor; whose Name shall be entered with the Clerk of the Peace.

II. And be it further enacted by the authority aforesaid, That if any hare pheasant partridge moor heath game or grouse shall be found in the shop house or possession (1.) of any person or persons whatsoever, not qualified in his own right to kill game or being entitled thereto under some person so qualified, the same shall be adjudged deemed and taken to be an exposing thereof to sale within the true intent and meaning of this and the said recited Act; (2.) any thing in this or in the said recited Act to the contrary thereof in any wise notwithstanding.

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If any Hare, &c. be found in the Shop, &c. of any unqualified Person, &c. it shall be judged an exposing to Sale.

III. And be it further enacted by the authority aforesaid, That if any person or persons whatsoever shall take kill or destroy any hare pheasant partridge moor heath game or grouse in the night-time, the person or persons so offending shall likewise for every such offence incur such forfeitures pains and penalties as aforesaid, to be recovered likewise by such means within such time and to such uses as aforesaid.

Killing any Hare, &c. in the Night, to incur the like Forfeitures.

IV. 'And whereas very great numbers of wild fowl of several kinds 'are destroyed by the pernicious practice of driving and taking them with 'hayes tunnels and other nets in the fens lakes and broad waters where 'fowls resort in the moulting time, and that at a season of the year when 'the fowl are sick and moulting their feathers and the flesh unsavoury 'and unwholesome, to the prejudice of those that buy them and to the 'great damage and decay of the breed of wild fowl;' Be it therefore further enacted by the authority aforesaid, That if any person or persons whatsoever, between the first day of *July* and the first day of *September*, as they shall yearly happen, shall by hayes tunnels or other nets drive and take away any wild duck teal widgeon or any other fowl commonly reputed water fowl, in any of the fens lakes broad waters or other places of resort for wild fowl in the moulting season, such person or persons who shall so offend and thereof shall be convicted before any one or more of her Majesty's justices of the peace for the county where such offence shall be committed by the oath of one or more credible witness, shall for every wild duck teal or other water fowl so taken as aforesaid forfeit and pay the sum of five shillings; one moiety thereof to be paid to the informer and the other moiety to the poor of the parish where such offence shall be committed; the same to be levied by distress and sale of the offender's goods by warrant under the hand and seal of the justice and justices of the peace before whom the offender shall be convicted, rendering the overplus if any be above the penalty and charge of distress; and for want of distress the offender or offenders shall be committed to the house of correction for any time not exceeding one month nor less than fourteen days, there to be whipt and kept to hard labour; and the justice or justices of the peace before whom such person or persons so offending shall be convicted shall order such hayes nets or tunnels that were used in driving and taking the said wild fowl as aforesaid to be seized and immediately destroyed in the presence of such justice or justices.

10 Geo. 2. c. 32.

No Person shall, between 1 July and 1 Sept. take any Wild Duck, &c. by Hayes, &c. on Forfeiture of 5s. for each Wild Fowl, &c.

[No. XXXI.] 3 George I. c. 11.—An Act to explain and amend several Laws therein mentioned, for the better Preservation of the Game.

I. 'WHEREAS by an Act made in the fifth year of the reign of her 'late Majesty Queen Anne, intituled "An Act for the better 'preservation of the Game," it is enacted, that it shall and may be law-'ful for any lord or lady of his or her respective lordship or manor by

3 George I. c. 11.

5 Ann, c. 14. and

(1.) Judgment for Plaintiff in an Action for having in Possession, although objected that the Statute only makes it Evidence of an exposing to Sale. Jones v. Bishop, Say. 191. A Servant employed to detect Poachers, taking up a Hare killed by strangers, for the purpose of taking it to the Lord, has not such a Possession as will subject him to a Penalty. Warnford v. Kendall, 10 E. 19.

(2.) And by relation to Stat. 5 Anne, the Penalty is incurred for every Hare, &c. Bluet v. Needs, Com., Rep. 522.

No. XXXI.
3 Geo. I. c. 11.

'writing under his or her hand and seal to empower his or her game-keeper or gamekeepers upon his or her own lordship or manor to kill hare pheasant partridge or any other game whatsoever; which power of appointing several gamekeepers in the same manor with power to kill game was found by experience to tend very much to the destruction of the game of this kingdom: for the preventing whereof by one other Act of the ninth year of the reign of her said late Majesty Queen *Anne*, intituled "An Act for making the Act of the fifth year of her Majesty's reign for the better preservation of the game perpetual, and for making the same more effectual," it was enacted, that no lord or lady of any manor shall make constitute or appoint above one person to be a gamekeeper within any one manor, with power or authority to kill or destroy the game thereof; and that the name of such person so to be authorised to kill the game, shall from time to time be entered with the clerk of the peace of the county riding or division wherein such manor does lie, which power of appointing a gamekeeper so to be entered as aforesaid, was manifestly designed to no other intent or purpose whatsoever but that any lord or lady might appoint such person as he or she should think proper to kill the game upon his or her own lordship or manor for the sole and proper use of the said lord or lady; such gamekeeper being expressly restrained by the said first-recited Act from selling or disposing of any game to any person or persons whatsoever, without the consent or knowledge of the said lord or lady of such manor or manors that had given such power and authority as aforesaid: And whereas under colour and pretence of the said power and authority to kill or take game for the use of the lords or ladies of any manor, it is become usual and frequent in several parts of the kingdom for lords and ladies of manors to grant powers and deputations to the farmers tenants and occupiers of the lands and estates lying within the precincts of their respective manors to be gamekeepers, with power to kill and destroy the game; which practice is a very great abuse of the powers intended by the said Acts to be granted, and manifestly tends very much to the destruction of the game of this kingdom;' For remedy whereof, Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the tenth day of *July* one thousand seven hundred and seventeen no lord or lady of any manor shall make constitute or appoint any person to be a gamekeeper, with power and authority to take and kill hare pheasant partridge or any other game whatsoever, unless such person be qualified by the laws of this realm so to do, or unless such person be truly and properly a servant to the said lord or lady, or such person be immediately employed and appointed to take and kill the game for the sole use or benefit of the said lord or lady, and not otherwise: and that no lord or lady of any manor shall authorise or qualify any person or persons whatsoever not being qualified by the laws of this realm so to do, to take or kill any hare pheasant partridge or other game whatsoever, or to keep or use any greyhound setting-dogs hays lurchers guns tunnels or any other engine to kill and destroy the game; and that any person or persons whatsoever not being qualified by the laws so to do, or not being truly and properly a servant of any lord or lady of a manor, or not immediately employed and appointed to take and kill the game for the sole use or immediate benefit of the said lord or lady, who under colour or pretence of any power or authority deputation or qualification to him granted by any lord or lady of a manor, shall take or kill any hare pheasant partridge or other game whatsoever, or shall keep or use any greyhounds setting-dogs hays lurchers guns tunnels or any other engine to kill and destroy the game being thereof legally convicted shall for every such offence incur such forfeitures pains and penalties as are appointed to be inflicted by the said recited Acts of the fifth and ninth years of the reign of the late Queen *Anne*; such forfeitures to be recovered by such means and in such manner and form, and within such time and to such uses as are

9 Anne, c. 25.

No Lord of a Manor shall appoint any Gamekeeper, with Power to kill the Game, except he be qualified so to do, or be a Servant, &c.

Nor to keep any Greyhound, &c.

Unqualified Persons killing the Game shall be liable to the Forfeitures in the recited Acts.

prescribed by the said recited Acts; any thing in the said Acts or in any other law or statutes to the contrary thereof in any wise notwithstanding.

No. XXXI. 3 Geo. I. c. 11.

II. And be it further enacted by the authority aforesaid, That the said recited Acts of the fifth and ninth years of the reign of her said late Majesty Queen *Anne*, and all other laws now in force for the better preservation of the game and all matters powers and things therein contained, not hereby altered and repealed, shall continue remain and be in full force.

The recited Acts shall remain in Force.

[No. XXXII.] 5 Geo. I. c. 15. A.D. 1718.—An Act for making more effectual an Act of the Third and Fourth Years of the Reign of King *William* and Queen *Mary*, intituled 'An Act for the more effectual Discovery and Punishment of Deer-stealers.'

[No. XXXIII.] 5 George I. c. 28. A. D. 1718.—An Act for the further Punishment of such Persons as shall unlawfully kill or destroy Deer in Parks, Paddocks, or other inclosed Grounds.

[No. XXXIV.] 8 George I. c. 19. A. D. 1721.—An Act for the better Recovery of the Penalties inflicted upon Persons who destroy the Game.

8 George I. c. 19.

FOR rendering more effectual the laws now in being for the better preservation of the Game, Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That wheresoever any person shall for any offence to be hereafter committed against any law now in being for the better preservation of the game be liable or subject to pay any pecuniary penalty or sum of money upon conviction before any justice or justices of the peace, it shall and may be lawful for any other person whatsoever either to proceed to recover the said penalty by information and conviction before a justice or justices of the peace in such manner as is in such law contained, or to sue for the same by action of debt or on the case bill plaint or information in any of his Majesty's courts of record, wherein no essoign protection wager of law or more than one imparlance shall be allowed, and wherein the plaintiff if he recovers shall likewise have his double costs. (1.)

Wheresoever any Person shall be liable to any pecuniary Penalty, any other Person may recover the Penalty by Information before a Justice, or sue for the same, &c. See 2 *East's Rep.* 333.

II. Provided, That all suits and actions to be brought by force of this Act shall be brought before the end of the next term after the offence committed; and that no offender against any of the laws now in being for the better preservation of the game shall be prosecuted for the same offence, both by the way prescribed by this law and by the way prescribed by any of the said former laws; and that in case of any second prosecution the person so doubly prosecuted may plead in his defence the former prosecution pending, or the conviction or judgment thereupon had.

Actions to be brought before the End of the Term after the Offence committed. Altered by 2 Geo. 3. c. 19. § 5. See 2 East's R. 333.

(1.) The action may be brought against several defendants, and the verdict taken against some, and the others acquitted: Hardyman *v.* Whitacre, 2 E. 573.

[No. XXXV.] 9 George I. c. 22. A. D. 1722.—An Act for the more effectual punishing wicked and evil-disposed Persons going armed in Disguise, and doing Injuries and Violences to the Persons and Properties of his Majesty's Subjects, and for the more speedy bringing the Offenders to Justice.

[Inserted in Part V.]

No. XXXVI. 10 Geo. II. c. 32.

P.

[No. XXXVI.] 10 George II. c. 32. A.D. 1737.—An Act for continuing 'An Act for the more effectual punishing wicked and evil-disposed Persons going armed in Disguise, and doing Injuries and Violences to the Persons and Properties of his Majesty's Subjects, and for the more speedy bringing the Offenders to Justice;' * * * * * * * * * * * * * and for the more effectual Punishment of * * * * * * * * * Persons unlawfully hunting or taking any Red or Fallow Deer in Forests or Chases, or beating or wounding Keepers or other Officers, in Forests, Chases, or Parks; and for more effectually securing the Breed of Wild-fowl.

10 George II. c. 32.
9 Ann, c. 25.

X. 'AND whereas by an Act of Parliament passed in the ninth year of the reign of her late Majesty Queen *Anne*, intituled "An 'Act for making an Act of the fifth year of her Majesty's reign, for the 'better preservation of the Game, perpetual, and for making the same more 'effectual," it is enacted, That if any person between the first day of *July* 'and first day of *September* in any year shall by hayes tunnels or other 'nets drive and take any wild-duck teal widgeon or any other water-fowl 'in any places of resort for wild-fowl in the moulting season, the offender 'being convicted thereof before one justice of the peace where the 'offence shall be committed and by the oath of one credible witness 'shall forfeit five shillings for every such fowl so taken, one moiety 'to the informer the other to the poor of the parish where the offence 'was done, to be levied by a warrant of the justice of peace before whom 'the offender was convicted, by distress and sale of his goods, and for 'want of distress to be committed to the house of correction for any 'time not exceeding one month nor less than fourteen days, there to be 'whipt and kept to hard labour; and the justice of the peace shall cause 'such hayes and nets to be seized and immediately destroyed in his 'presence: And whereas the said Act hath been found by experience to 'be ineffectual, by reason that the wild-fowl begin to moult before the 'first of *July* and have not done moulting by the first of *September*, so 'that great numbers of wild-fowl are yearly destroyed contrary to the 'true intent and meaning of the said Act;' Therefore for remedy thereof be it enacted by the authority aforesaid, That if any person shall in any year between the first day of *June* and the first day of *October* by hayes tunnels or other nets drive and take any wild-duck teal widgeon or any other water-fowl in any marshes fens or other places of resort for wild-fowl, and shall be thereof convicted in such manner as in the said Act of the ninth year of her late Majesty Queen *Anne* is prescribed, he shall be liable to the same penalties to be levied in like manner as by virtue of the said Act he would be liable to if such offence was committed between the first day of *July* and the first day of *September*, and for want of distress be committed to the house of correction and there punished as by the said Act is directed.

Penalty on taking Wild-fowl in Nets, in the moulting Season.

[The Sections relating to Hunting and wounding Keepers are inserted in Part V.]

[No. XXXVII.] 26 George II. c. 2. A. D. 1753.—An Act to amend an Act made in the Eighth Year of the Reign of his late Majesty King *George* the First, intituled 'An Act for the better Recovery of the Penalties inflicted upon Persons who destroy the Game,' by enlarging the Time within which Suits and Actions are to be brought by force of the said Act.

26 Geo. II. c. 2. § 2.
8 Geo. I. c. 19.

WHEREAS by an Act of Parliament made in the eighth year of the reign of his late Majesty King *George*, intituled "An Act for the

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'better Recovery of the Penalties inflicted upon persons who destroy 'the Game,' it is provided that all suits and actions to be brought by 'force of the said Act shall be brought before the end of the next term 'after the offence committed: and whereas the time allowed by the said 'Act for the bringing of such suits and actions has been found very 'inconvenient, and in many cases is not sufficient for the commencing of 'prosecutions against offenders, whereby the intent of the said Act hath 'been in some degree defeated;' Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That all suits and actions to be brought by virtue of the said Act for the recovery of any pecuniary penalty or sum of money for offences which after the twenty-fifth day of *March* one thousand seven hundred and fifty-three shall be committed against any law now in being for the better preservation of the game, shall and may be brought before the end of the second term after the offence committed; (1.) any thing in the said Act contained to the contrary notwithstanding.

No. XXXVII. 26 Geo. II. c. 2.

Suits for Penalties may be brought before the end of the second Term. Altered by 2 Geo. 3. c. 19. which allows Six Months. See 2 East's Reports, 333.

(1) Semble, that a declaration for a penalty on killing Game in an Action brought for the whole penalty on the Statute 2 Geo. 3. c. 19. § 5. and prior Statutes, need not allege the fact to have been committed within two terms before the Action commenced, according to Stat. 26 Geo. 2. c. 2; the Stat. 2 Geo. 3. c. 19. having allowed six months. Lee *v.* Clarke (in Error) 2 E. R. 333.

[No. XXXVIII.] 28 George II. c. 12. A. D. 1755.—An Act to explain and amend a Clause in an Act made in the Fifth Year of the Reign of Queen *Anne*, intituled, 'An Act for the better Preservation of the Game,' in Relation to the selling or offering to Sale any Game.

'WHEREAS by an Act of Parliament made in the fifth year of her 'late Majesty Queen *Anne*, intituled "An Act for the better pre-'servation of the Game," it was enacted, That if any higlar chapman 'carrier innkeeper victualler or alehousekeeper should have in his cus-'tody or possession, or should buy sell or offer to sell any hare pheasant 'partridge moor heath-game or grouse, every such higlar chapman inn-'keeper victualler alehousekeeper or carrier (unless such game in the 'hands of such carrier be sent by any person or persons qualified to kill 'the game) shall upon conviction of such offence forfeit for every hare 'pheasant partridge moor heath-game or grouse the sum of five pounds, 'one half to be paid to the informer and the other to the poor of the 'parish where the offence was committed: And whereas doubts have 'arisen with respect to the meaning of the word chapman, whereby the 'intent of the said Act hath been in some degree defeated;' Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That if any person or persons whatsoever, whether qualified or not qualified to kill game, shall sell expose or offer to sale any hare pheasant partridge moor heath-game or grouse, every such person or persons shall for every such offence be subject and liable to the same forfeitures pains and penalties as are inflicted by the said recited Act upon higlars chapmen carriers innkeepers victuallers or alehousekeepers for buying selling or offering of game to sale.

28 George II. c. 12.

5 Ann, c. 14.

Persons selling or exposing to Sale any Game, liable, &c.

II. And be it further enacted by the authority aforesaid, That if any hare pheasant partridge moor heath-game or grouse shall be found in the shop house or possession of any poulterer salesman fishmonger cook or pastry-cook, the same shall be adjudged deemed and taken to be an exposing thereof to sale within the true intent and meaning of this Act and the said recited Act or any other Act; which said forfeitures shall

Game found in the House or Possession of a Poulterer, &c. deemed exposing thereof to Sale.

No. XXXVIII. 28 Geo. II. c. 12.

be recovered and such penalties inflicted by such means and in such manner and from and within such time and shall be applied to such uses as are prescribed by the said recited Act or by any other Act or Acts since made for the preservation of the game; any thing in the said recited Act, or any other law or statute to the contrary thereof in any wise notwithstanding.

[No. XXXIX.] 2 George III. c. 19. A. D. 1761.—An Act for the better Preservation of Game in that part of *Great Britain* called *England*.

2 George III. c. 19.

No Person may take, &c. any Partridge between 12 Feb. and 1 Sept. or Pheasant between 1 Feb. and 1 Oct. or Heath-fowl between 1 Jan. and 20 Aug. or Grouse between 1 Dec. and 25 July.

'FOR the better preservation of the Game in this kingdom, may it 'please your most excellent Majesty that it may be enacted;' and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, and by the authority of the same, That no person or persons after the first day of *June* one thousand seven hundred and sixty-two shall upon any pretence whatsoever take kill destroy carry sell buy or have in his her or their possession or use any partridge between the twelfth day of *February* and the first day of *September* in any year; or any pheasant between the first day of *February* and the first day of *October* in any year; or any heath-fowl commonly called black game between the first day of *January* and the twentieth day of *August* in any year; or any grouse commonly called red game between the first day of *December* and the twenty-fifth of *July* in any year.

Repealed as to black and red Game, by 13 Geo. 3. c. 55. § 13.

II. Provided always, That nothing in this Act shall extend to any pheasant which shall be taken in the season allowed by this Act, and kept in any mew or breeding place.

III. Provided also, That nothing in this Act contained shall extend or be construed to extend to that part of *Great Britain* called *Scotland*.

Persons offending forfeit 5*l.* per Bird.

IV. And be it further enacted by the authority aforesaid, That if any person or persons shall transgress this Act in any of the aforesaid cases and shall be lawfully convicted thereof by the oath of one or more credible witness or witnesses, every such person shall for every partridge pheasant heath-fowl or grouse so taken killed destroyed carried sold bought or found in his her or their possession or use contrary to the true intent and meaning of this Act forfeit and pay the sum of five pounds to the person or persons who shall inform or sue for the same: and it shall and may be lawful to and for any person or persons to sue and prosecute for and recover the said penalty of five pounds with full costs of suit by action of debt bill plaint or information in any of his Majesty's courts of record at *Westminster;* and in such action or suit no essoign wager of law or more than one imparlance shall be allowed. (1.)

8 Geo. 1 c. 19.

V. 'And whereas by an Act passed in the eighth year of the reign of 'his late Majesty King *George* the First, intituled *An Act for the better* '*Recovery of the Penalties inflicted upon Persons who destroy the Game;* 'it was enacted, That wheresoever any person shall for any offence to be 'hereafter committed against any law now in being for the better pre-'servation of the game be liable or subject to any pecuniary penalty 'or sum of money upon conviction before any justice or justices of the 'peace, it shall and may be lawful for any other person whatsoever either 'to proceed to recover the said penalty by information and conviction

(1.) Assuming it to be necessary in an action for a Penalty by a common Informer that the Court should refer to the Statute giving the remedy, as well as to that creating the Offence and giving the Penalty; yet a Count for a Penalty on the Stat. 5 Anne, c. 14. stating that the Defendant kept a snare to kill Game against the form of the Statute in such case made, &c. by reason whereof, and by force of the Statute in such case made, &c., an Action hath accrued, &c. is sufficient; for the first Statute mentioned refers to the 5 Anne, c. 14. creating the Offence and giving the Penalty; and the Statute lastly mentioned refers to the 2 Geo. 3. c. 19. whereby the whole Penalty is given to the common Informer, the half only of which had been given to him by an intervening Statute. Clanricarde (Earl) v. Stokes, 7 E. R. 516.

before a justice or justices of the peace in such manner as in such law contained, or to sue for the same by action of debt or on the case bill plaint or information in any of his Majesty's courts of record: And whereas a moiety or portion of the said pecuniary penalty is by several Acts of Parliament directed to be applied to and for the use of the poor of the parish wherein such offence shall be committed, by reason whereof inhabitants of the said parish have been disallowed to give evidence touching such offences; and whereas suits by action of debt or on the case bill plaint or information are often attended with great costs and charges to the prosecutor, by means whereof the end or intentions of the said Act have been in a great measure frustrated; For remedy whereof,' Be it enacted by the authority aforesaid, That from and after the passing of this Act it shall and may be lawful for any person whatsoever to sue for and recover the whole of such penalty for his own use by action of debt or on the case bill plaint or information in any of his Majesty's courts of record at *Westminster*, wherein no essoign wager of law or more than one imparlance shall be allowed; and wherein the plaintiff if he recovers shall have his double costs; and that no part of the said penalty recovered in any such suit or action shall be paid or applied to or for the use of the poor of the parish wherein such offence shall be committed; any law or usage to the contrary notwithstanding. (2.)

Pecuniary Penalties under the said Act may be sued for, to sole Use of Prosecutor, &c.

VI. Provided always and be it enacted, That no such action suit bill plaint or information shall be brought or exhibited but within the space of six months (3.) next after the matter or thing done, for which the same shall be commenced or exhibited as aforesaid.

Prosecution within Six Months.

(2.) As to the manner of laying the Offence and right of Action to be against the Statute or Statutes, see Lord Clanrickarde *v.* Stokes, 7 E. 516; and see Lee *v.* Clarke, 2 East, 333.

(3.) This means lunar months; but it is not necessary to aver in the Declaration that the Action was commenced within Six Months, and if alleged to be within Six Calendar Months it is no objection: Lee *v.* Clarke, 2 East, 333.

[No. XL.] 2 George III. c. 29. A. D. 1761.—An Act to amend so much of an Act made in the First Year of the Reign of King *James* the First, intituled, "An Act for the better Execution of the Intent and Meaning of former Statutes made against Shooting in Guns, and for the Preservation of the Game of Pheasants and Partridges, and against the destroying of Hares with Hare-pipes, and tracing Hares in the Snow," as relates to the Preservation of House Doves and Pigeons, by making the Manner of convicting such Person or Persons as shall offend therein more easy and expeditious.

2 George III. c. 29.

1 Jac. I. c. 27.

WHEREAS by an Act made in the first year of the reign of his Majesty King *James* the First, intituled *An Act for the better Execution of the Intent and Meaning of former Statutes made against Shooting in Guns, and for the Preservation of the Game of Pheasants and Partridges, and against the destroying of Hares with Hare-pipes, and tracing Hares in the Snow*, it is amongst other things therein enacted, That all and every person and persons who shall kill or destroy any house-dove or pigeon and shall be thereof convicted by the confession of the party or by the testimony of two sufficient witnesses upon oath before two or more justices of the peace of the county city or town corporate wherein the offence shall be committed or the parties apprehended, such justices shall commit every such offender so apprehended to the common gaol of the said county city or town corporate where the offence shall be committed or the party apprehended, there to remain for three months without bail or mainprize, unless that the said offender do or shall forthwith upon the said conviction pay or cause to be paid

No. XL.
2 Geo. III.
c. 29.

'to the churchwardens of the said parish where the said offence shall be 'committed or the party apprehended, to the use of the poor of the said 'parish the sum of twenty shillings for every house-dove or pigeon 'which every such person or persons so offending and convicted as afore-'said shall take kill or willingly destroy contrary to the true purport 'and meaning of that Act; or after one month after his commitment, 'together with two sufficient sureties become bound by recognisance in 'the sum of twenty pounds a-piece to the King's Majesty's use his heirs 'and successors, with condition that he the said party so offending shall 'not at any time thereafter shoot at kill take or destroy any house-dove 'or pigeon by any such means as in the said Act are mentioned; which 'said recognisance shall be taken by any two or more justices of the 'peace of the said county city or town corporate where the offender shall be 'so imprisoned as aforesaid and shall be returned to the then next quarter 'sessions, and there to remain of record as other recognisances taken for 'the peace as by the said in part recited Act, relation for greater cer-'tainty being thereunto had may more fully appear: And whereas the 'method of convicting offenders against the above-recited Act hath hitherto 'been found in a great degree ineffectual to answer the good intentions 'of the said Act; Therefore for more speedy convicting and punishing 'persons who shall be guilty of the said mischievous practice of wilfully 'killing or destroying house-doves or pigeons belonging to other persons, 'may it please your Majesty that it may enacted,' and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That after the twenty-fourth day of *June* one thousand seven hundred and sixty-two if any person or persons shall shoot at with an intent to kill or shall by any means whatever kill or take with a wilful intent to destroy any house-dove or pigeon and shall be thereof convicted by the confession of the party offending or the oath of one or more credible witness or witnesses before one or more justice or justices of the peace of the county city town corporate division riding or place (which oath such justice or justices are hereby authorised to administer) wherein any such offence or offences shall be committed, or the party or parties offending shall be apprehended, every person so offending and who shall be convicted as aforesaid of any such offence shall for every such offence forfeit and pay the sum of twenty shillings to the person or persons who shall inform against and prosecute to conviction any such offender or offenders; and in case the money so forfeited shall not be forthwith paid on every such conviction, it shall and may be lawful for such justice or justices to commit any such offender or offenders who shall be so convicted as aforesaid to the common gaol of the county or the house of correction in the division or place where the party is convicted or apprehended, there to remain and be kept to hard labour for any time not exceeding three calendar months nor less than one calendar month as any such justice or justices shall order, unless the money forfeited shall be sooner paid.

Any Person who shall wilfully shoot at or destroy any House-doves or Pigeons belonging to other Persons shall forfeit on Conviction 20*s.* to the Prosecutor, &c.

Owners of Dove-cotes, &c. excepted.

II. Provided always and it is hereby also enacted, That nothing in this Act contained shall be construed deemed or taken to hinder any owner of a dove-cote pigeon-house pigeon-chamber or any other place built up or erected or to be built up or erected for the preservation or breeding of pigeons, from taking killing or destroying by himself or any other person by him appointed or authorised for that purpose, all or any house-doves or pigeons which shall at any time be taken in the proper dove-cote pigeon-house pigeon-chamber or any other place as aforesaid, for the preservation or breeding of pigeons of any owner of such dove-cote pigeon-house pigeon-chamber or other place.

III. Provided further and it is hereby also enacted, That no person who shall be convicted of any offence against this Act shall be liable to be convicted for any such offence under any former or other Act; and that no person shall be prosecuted for any offence against this Act unless the prosecution for the same shall be commenced and carried on with effect within the space of two calendar months after every such offence

shall be committed; and that where any person shall suffer imprisonment for default of payment of any penalty imposed under this Act such person shall not be liable afterwards to pay such penalty.

No. XL. 2 Geo. III. c. 29.

P.

[No. XLI.] 5 George III. c. 14. A. D. 1765.—An Act for the more effectual Preservation of Fish in Fish-ponds and other Waters; and Conies in Warrens; and for preventing the Damage done to Sea Banks within the County of *Lincoln*, by the breeding Conies therein.

5 George III. c. 14.

VI. 'AND whereas there are many thousand acres of land in this kingdom altogether unfit for cultivation, and yet the same are capable of rendering great profit by the breeding and maintaining conies, as well to the owners of such lands as to a multitude of industrious manufacturers who gain their livelihood by working up coney wool: And whereas a great part of the said land is already used as warrens in the breeding and maintaining Conies, but because divers disorderly persons neglecting their own lawful trades have betaken themselves to the taking killing and stealing of Conies in the night-time whereby the owners and occupiers of such warrens are greatly discouraged, and many such owners and occupiers have been induced to destroy such warrens and others have been deterred from stocking other lands to the great prejudice of the manufactures of this kingdom: And whereas the provisions already subsisting, have by experience been found insufficient for the effectual preservation of Conies in Warrens:' For remedy thereof be it further enacted, That if any person or persons shall, from and after the first day of *June* one thousand seven hundred and sixty-five, wilfully and wrongfully in the night time enter into any warren or grounds lawfully used or kept for the breeding or keeping of conies although the same be not inclosed, and shall then and there wilfully and wrongfully take or kill in the night-time any coney or conies, against the will of the owner or occupier thereof, or shall be aiding and assisting therein, and shall be convicted of the same before any of his Majesty's justices of oyer and terminer or general gaol delivery for the county where such offence or offences shall be committed; every such person or persons so offending and being thereof lawfully convicted in manner aforesaid shall and may be transported for the space of seven years, or suffer such other lesser punishment by whipping fine or imprisonment as the court before whom such person or persons shall be tried shall in their discretion award and direct.

Persons convicted of entering Warrens in the Night-time, and taking or killing Conies there, may be punished by Transportation, &c.

[No. XLII.] 13 George III. c. 55. A. D. 1773.—An Act to explain and amend the several Laws now in being, so far as the same relate to the Preservation of the Moor or Hill Game.

13 George III. c. 55.

'WHEREAS the laws now in being relative to the preservation of the Moor or Hill Game have been found very insufficient to answer the purpose for which they were intended: And whereas some further regulations are become absolutely necessary to prevent the total destruction of that species of Game:' May it please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the twenty-fourth day of *June* one thousand seven hundred and seventy-three no person or persons shall upon any pretence whatsoever wilfully take kill destroy carry sell buy or have in his her or their possession or use any heath fowl commonly called *Black Game*, between the tenth day of *December* and twentieth day of *August* in any year; nor any grouse commonly called *Red*

No Person to kill black Game between, &c.

No. XLII.
13 Geo. III. c. 55.

Game, between the tenth day of *December* and the twelfth day of *August* in any year; nor any bustard between the first day of *March* and the first day of *September* in any year.

Penalty.

II. And be it further enacted by the authority aforesaid, That from and after the said twenty-fourth day of *June* if any person or persons shall in any of the cases aforesaid offend contrary to the true intent and meaning of this Act, every such person shall upon due conviction for the first offence forfeit and pay any sum or sums of money not exceeding twenty pounds nor less than ten pounds; and for the second and every subsequent offence any sum or sums of money not exceeding thirty pounds nor less than twenty pounds; to be levied and recovered in manner as herein is after mentioned.

Forfeitures and Penalties.

III. And be it further enacted, That all such forfeitures and penalties so to be incurred as aforesaid shall and may be recovered by action of debt bill plaint or information in any of his Majesty's courts of record at *Westminster* or great sessions in *Wales*, wherein no essoign protection nor wager of law nor more than one imparlance shall be allowed: Provided such action be brought within six calendar months after the matter or thing done for which the same shall be commenced or exhibited.

Information.

IV. And be it further enacted, That it shall and may be lawful for any person whatsoever (except the person liable to pay any such forfeitures or penalties) to proceed to recover any of the aforesaid forfeitures and penalties by information and conviction before any justice or justices of the peace of any county city corporation division riding precinct or liberty wherein the offence shall happen; and such justice or justices are hereby authorised and empowered upon due proof made upon oath by one or more credible witness or witnesses, or by the confession of the party accused, to cause the said forfeiture to be forthwith paid; and in case of neglect or refusal to levy the same by distress and sale of the offender's goods and chattels by warrant under his or their hand and seal or hands and seals together with all costs and charges attending the same, returning the overplus if any to the owner; and every such forfeiture when paid or recovered shall be applied one moiety to the informer and the other moiety to the poor of the parish where such offence shall have been committed; and it shall and may be lawful for such justice or justices to order such offender to be detained in safe custody until return may be conveniently had and made to such warrant of distress, unless the party so convicted shall give sufficient security to the satisfaction of such justice or justices for his appearance before him or them on the day appointed for the return of the warrant of distress, such day not exceeding five days from the time of taking such security; which security the said justice or justices is and are hereby empowered to take by way of recognisance or otherwise: And in case no sufficient distress can be had, such justice or justices shall commit such offender to the common gaol or house of correction, there to be kept to hard labour for any time not exceeding six nor less than three calendar months, unless the money forfeited and all costs and charges attending the prosecution shall be sooner paid and discharged.

V. Provided always and be it further enacted, That no offender against the provisions of this Act shall be prosecuted for the same offence both by action of law and by information before a justice of the peace; but in case of any second prosecution the person so doubly prosecuted may plead in his defence the former prosecution pending or the conviction or judgment thereupon had.

Conviction.

VI. 'And for the more easy conviction of offenders against this Act,' Be it further enacted, That the form of the conviction shall be drawn up in the following or like form of words:

'BE it Remembered, that on the day of
' in the year of our Lord
' *A. B.* having appeared before me, [*or*, us]
' one or more of his Majesty's Justices of the
' Peace [*as the case may be*] for the county of

and due proof having been made upon oath ' by one or more credible witness or witnesses, or by confession of the ' party [*as the case may be*], is convicted of [*specifying the offence, with the ' time and place where the same was committed, and also specifying, if ' known, that it is the first second or any subsequent offence against this Act, ' as the case shall be.*]

' Given under my hand and seal, [*or*, our hands and seals,] the day and year aforesaid.'

Which conviction the said justice or justices shall cause to be wrote fairly upon parchment and returned to the next general quarter sessions of the peace for the county where such conviction was made, to be filed by the clerk of the peace and remain and be kept among the records of the county riding division or place

VII. Provided always and be it further enacted, That it shall and may be lawful for any clerk of the peace for any county riding or place, and he is hereby required upon application made to him by any person or persons for that purpose, to cause a copy or copies of any conviction or convictions filed by him under the directions of this Act to be forthwith delivered to such person or persons upon payment of one shilling for every such copy.

VIII. And be it further enacted, That it shall and may be lawful for any such justice or justices of the peace as aforesaid to administer an oath to any witness or witnesses or other person or persons for the better discovery and execution of the several matters and things herein-before directed to be examined into or performed by such justice or justices respectively.

Justices may administer an Oath.

IX. Provided always and be it further enacted, That no person shall be proceeded against for any of the offences aforesaid by information before a justice of the peace, unless such information shall be made upon oath before some justice of the peace for the county or place wherein such offence shall be committed within three calendar months after such offence shall have been committed.

X. And be it further enacted by the authority aforesaid, That if any person shall think himself or herself aggrieved by any thing done in pursuance of this Act by any justice or justices of the peace as aforesaid, every such person may appeal to the justices of the peace at any general quarter sessions of the peace to be held for the county riding city corporation precinct or liberty wherein the cause of such complaint shall arise and within four calendar months after the cause of such complaint shall have arisen, such appellant giving or causing to be given fourteen days notice at the least in writing of his or her intention to bring such appeal and of the matter thereof to the justice; and every other person or persons against whom such complaint shall be made and within four days after such notice entering into a recognisance before some justice of the peace for the said county riding division city corporation precinct or liberty with one sufficient surety conditioned to try such appeal at and abide the order of and pay such costs as shall be awarded by the justices at such quarter sessions; and every such justice and other person having received notice of such appeal shall return all proceedings had before them touching the matter of such appeal to the said justices at such quarter sessions, on pain of forfeiting five pounds for every such neglect; and the said justices upon due proof of the notice given and of the entering into such recognisance as aforesaid shall hear and finally determine the causes and matters of such appeal in a summary way, and award such costs to the parties appealing or appealed against as they shall think proper; to be levied and recovered as herein-before directed for the recovery of forfeitures and penalties under this Act; and the determination of such quarter sessions shall be final and conclusive to all intents and purposes; and no proceedings to be had or taken in pursuance of this Act shall be quashed or vacated for want of form or removed by *certiorari* or any other writ or process whatsoever, except as herein-before mentioned, into any of his Majesty's courts of record at *Westminster*, any law or statute to the contrary notwithstanding.

Appeal.

No. XLII.
13 Geo. III. c. 55.

XI. And be it further enacted, That nothing in this Act contained shall extend to that part of *Great Britain* called *Scotland.**

*Not to extend to Scotland.

XII. And be it further enacted, That if any action suit or information shall be commenced or prosecuted against any person or persons for any thing which shall be done in pursuance of this Act or in execution of any of the powers or authorities hereby given, every such action suit or information shall be commenced or prosecuted within the space of six calendar months next after the fact committed, and shall be laid or brought in the county riding division or place where the matter shall arise and not elsewhere; and the defendant or defendants in every such action suit or information shall and may at his or their election plead specially or the general issue and give this Act and the special matter in evidence; and if a verdict shall be given for the defendant, or if the plaintiff or plaintiffs shall be nonsuited or discontinue his her or their action suit or information after the defendant or defendants shall have appeared; or if upon demurrer judgment shall be given against the plaintiff or plaintiffs, then the defendant or defendants shall recover treble costs and have such remedy for the same as any defendant or defendants hath or have in other cases by law.

Limitation of Actions.

General Issue.

Treble Costs.

Part of Act 2 Geo. 3. repealed.

XIII. And be it enacted by the authority aforesaid, That so much of an Act passed in the second year of his present Majesty's reign, intituled *An Act for the better Preservation of the Game in that Part of* Great Britain *called* England, as relates to heath-fowl commonly called black game, or grouse commonly called red game, shall be and is hereby repealed.

[No. XLIII.] 13 George III. c. 80. A. D. 1773.—An Act to repeal an Act made in the Tenth Year of the Reign of his present Majesty, intituled, "An Act for the better Preservation of the Game within that Part of *Great Britain* called *England;* and for making other Provisions in lieu thereof."

13 George III. c. 80.

Geo. 3. c. 19.

'WHEREAS by an Act passed in the tenth year of the reign of his 'present Majesty, intituled "An Act for the better preservation of 'the Game in that part of *Great Britain* called *England*," certain penalties 'and punishments were inflicted on persons killing and destroying game 'in the night between one hour after sun-set and one hour before sun-'rise: and whereas some doubts have arisen concerning the construction 'of some parts of the said Act and some inconveniences have followed 'therefrom;' Therefore, for obviating such doubts and for remedying such inconveniences, may it please your Majesty that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the twenty-fourth day of *June* one thousand seven hundred and seventy-three if any person or persons shall knowingly and wilfully kill take or destroy any hare pheasant partridge moor-game or heath-game, or use any gun dog snare net or other engine with intent to kill take or destroy any hare pheasant partridge moor-game or heath-game in the night, that is to say between the hours of seven of the clock at night and six in the morning, from the twelfth day of *October* to the twelfth day of *February*, and between the hours of nine of the clock at night and four in the morning, from the twelfth day of *February* to the twelfth day of *October*, every such person being convicted thereof upon the oath or oaths of one or more credible witness or witnesses before one or more justice or justices of the peace acting for the county riding or place where the offence shall be committed, shall forfeit and pay for the first offence any sum not exceeding twenty pounds nor less than ten pounds, and for the second offence any sum not exceeding thirty pounds nor less than twenty pounds; but in case any information shall be made upon oath as aforesaid before any justice or justices against any person

Rules to be observed by Persons killing Hares, &c. or using a Gun, &c.

offending against this Act, and if it shall appear that such offender hath already been convicted of a first and second offence against this Act, then and in such case such justice or justices shall and may commit such offender to the common gaol or house of correction for the county riding or place there to remain till the next general quarter session of the peace for the said county riding or place unless such offender shall have entered into a recognisance with two sufficient securities to appear at such general quarter session, then and there to be tried by indictment for the said offence; and also shall and may bind over the informer to prosecute the said offender by indictment as aforesaid; and the justices at their said general or quarter sessions shall and may direct the said indictment to be tried accordingly; and if upon such indictment such offender shall be convicted he shall forfeit and pay in court the sum of fifty pounds; and in case he shall neglect or refuse to pay the said sum of fifty pounds he shall be committed to the common gaol or house of correction for such county riding or place for any term not less than six nor more than twelve calendar months unless such penalty shall be sooner paid; and such offender shall if the justices think proper be once publicly whipped for such offence at the expiration of such commitment in the town or place where such gaol or house of correction shall be, between the hours of twelve and one of the clock in the day.

How Offenders to be punished.

II. And be it further enacted, That the justice or justices before whom any offender shall be convicted as aforesaid, shall cause the said conviction to be made out in the manner and form following; that is to say,

Form of Conviction.

'BE it Remembered, that on the day of in the year of our Lord *A. B.* is convicted before me one of his Majesty's Justices of the Peace for the county of [*specifying the offence, with the time and place where the same was committed, and also specifying that it was the first or second offence against this Act, as the case shall be.*] Given under my hand and seal the day and year aforesaid.'

Which conviction the said justice shall cause to be fairly wrote over upon parchment, and returned to the next general quarter sessions of the peace for the county riding or place where such conviction was made, to be filed by the clerk of the peace and remain and be kept among the records of the county.

Clerk to deliver a Copy of Conviction, on Payment of 1s.

III. Provided always and be it further enacted by the authority aforesaid, That it shall and may be lawful for any clerk of the peace for any county riding or place, and he is hereby required upon application made to him by any person or persons for that purpose, to cause a copy or copies of any conviction or convictions filed by him under the directions of this Act to be forthwith delivered to such person or persons upon payment of one shilling for every such copy.

Penalties and Forfeitures.

IV. And be it further enacted by the authority aforesaid, That the pecuniary penalties and forfeitures hereby to be incurred and made payable upon any conviction for a first and second offence against this Act, and also for a third offence upon conviction at the quarter sessions as aforesaid, together with the costs and charges previous to and attending such conviction to be ascertained by the justice or justices before whom any offender shall be convicted, shall be forthwith paid by the person convicted, one moiety of the forfeiture to the informer and the other moiety to the poor of the parish or place where the offence shall be committed: and in case such person shall refuse or neglect to pay the same, or to give security for the payment thereof, such justice or justices shall by warrant under his or their hand and seal or hands and seals cause the same to be levied by distress and sale of the offender's goods and chattels together with all costs and charges attending such distress and sale returning the overplus (if any) to the owner; and it shall and may be lawful for such justice or justices to order (1.) such offender to be detained in safe custody until return may conveniently be had and made to such

(1.) This order may be given by parol: Stell v. Walls, 7 E. 533.

No. XLIII.
13 Geo. III. c. 80.

warrant of distress, unless the party so convicted shall give sufficient security to the satisfaction of such justice or justices for his appearance before the said justice or justices on such day as shall be appointed by the said justice or justices for the day of the return of the said warrant of distress, such day not exceeding seven days from the time of taking such security; which security the said justice or justices are hereby empowered to take by way of recognisance or otherwise: but if upon such return no sufficient distress can be had, then and in such case the said justice or justices shall and may commit such offender to the common gaol or house of correction of the county riding or place for the space of three calendar months, unless the money forfeited shall be sooner paid, or until such offender thinking him or herself aggrieved by such conviction shall give notice to the informer that he or she intends to appeal to the justices of the peace at the next general quarter sessions of the peace to be held for the county or place wherein the cause of complaint shall arise, and shall enter into recognisance before some justice or justices with two sufficient securities conditioned to try such appeal and to abide the order of (2.) and pay such costs as shall be awarded by the justices at such quarter sessions; which notice of appeal being not less than fourteen days before the trial thereof, such person so aggrieved is hereby empowered to give, and the said justices at such session upon due proof of such notice being given as aforesaid, and of the entering into such recognisance, shall hear and finally determine the causes and matters of such appeal in a summary way, and award such costs to the parties appealing or appealed against as they the said justices shall think proper; and the determination of such quarter sessions shall be final binding and conclusive to all intents and purposes whatsoever.

Provisions of 10 Geo 3. c. 19. repealed.

V. And be it further enacted, That all the provisions of the said recited Act shall be and are hereby declared to be repealed.

Penalties for wilfully killing Game, or using a Gun on a Sunday or Christmas-day.

VI. And be it enacted by the authority aforesaid, That from and after the said twenty-fourth day of *June* one thousand seven hundred and seventy-three if any person or persons shall upon a Sunday or on Christmas-day in the day-time knowingly and wilfully take kill or destroy any hare pheasant partridge heath-game or moor-game, or shall upon a Sunday or on Christmas-day use any gun dog net or engine for taking killing or destroying any hare pheasant partridge moor-game or heath-game; every such person being convicted thereof in the manner and form prescribed by this Act, shall be subject to the like forfeitures and penalties as are herein-before enacted to be inflicted for other offences against this Act.

How Penalties for Offences committed are to be recovered.

VII. And be it further enacted, That in case any person shall commit an offence against this Act, whereby a penalty or punishment is incurred, and dwells in another county than in that in which the offence was committed, the justice or justices before whom such information or indictment was had or made may direct his or their warrant of apprehension and of distress and sale to any constable within such county riding or place where the offence was committed, to be by him carried to the justice near residing to the place where the offender dwells in such other county riding or place, to be signed by him on the back of the said warrant upon proof on oath of the hand-writing of the justice who first granted the warrant; which indorsement shall be sufficient authority for the constable of such parish or township where he dwells, or where his goods and chattels or distress are to be had and found, or for such constable who shall bring the said warrant to be indorsed to apprehend and convey such offender before the justice who first granted the warrant, or any other justice or justices of that county where the offence was committed, or for such constable to levy such penalty by distress and sale in the same manner and with the same powers as might have been done if the person had lived in the county riding or place where the offence was committed, and also in case where no sufficient distress can be had or found, to convey the offender before the justice who first granted the

(2.) The Recognisance must follow the Statute. A Recognisance to try the Appeal and pay the Penalty, with Costs, on affirmance, is bad: Rex v. Bellamy, 3 Anstr. 898.

warrant of distress or any other justice or justices of that county where the offence was committed to be dealt with according to law; and the justice of such other county who endorsed the warrant of distress or apprehension shall direct such constable or other person taking and making such distress and sale to deliver over any sums of money for penalties arising from such distress and sale to the justice of the county who first granted the warrant, to be by him distributed according to the meaning of this Act; and in case such constable or other person shall neglect or refuse to pay such sums of money, or deliver over all proceedings had upon such distress and sale or warrant of apprehension, such justice who first granted the warrant or the justice who indorsed it may commit such constable or other person so refusing or neglecting to account for the sums of money received or deliver over the proceedings so had thereupon, to the common gaol or house of correction for the space of six months or until the money shall be paid and the proceedings delivered over to the justice who first granted the warrant; or in case of his absence or death to any other justice of the same county, to be by him distributed according to the true intent and meaning of this Act: and that no action of trespass false imprisonment information or indictment or other action or appeal shall be brought sued commenced or prosecuted by any person or persons whatsoever against the justice of such other county who indorsed such warrant for or by reason of his indorsing the same.

No. XLIII. 13 Geo. III. c. 80.

VIII. Provided always and be it further enacted, That no order made concerning any of the matters aforesaid, or any other proceedings to be had touching the conviction or convictions of any offender or offenders against this Act, shall be quashed for want of form or be removed by writ of *certiorari* or any other writ or process whatsoever into any of his Majesty's courts of record at *Westminster*.

Proceedings not to be quashed, nor removeable by Certiorari.

IX. Provided also, That no person shall be proceeded against for any of the offences against this Act as aforesaid, unless information shall be made thereof upon oath before some justice of the peace for the county riding or place wherein such offence shall be committed within one calendar month after such offence shall be committed.

Information made on Oath.

[No. XLIV.] 16 George III. c. 30. A. D. 1776.—An Act more effectually to prevent the stealing of Deer, and to repeal several former Statutes made for the like Purpose.*

16 George III. c. 30.

'WHEREAS the statutes now in force for the discovery and punishment of deer-stealers are numerous, and many of them ineffectual: 'And whereas the good purposes thereby intended might be better effected if such of the said statutes as are found to be defective were repealed, and such good provisions as are therein contained together with such further provisions as may be expedient were reduced into one Act;' Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That if any person or persons shall course or hunt or shall take in any slip noose toyle or snare, or shall kill wound or destroy or shall shoot at or otherwise attempt to kill wound or destroy, or shall carry away any red or fallow deer in any forest chase purlieu or ancient walk, whether inclosed or not, or in any inclosed park paddock wood or other inclosed ground where deer are have been or shall be usually

Altered and in part repealed by 43 Geo. 3. c. 107.

Penalty on any who shall hunt, &c. any Fallow-deer, in any Forest, &c.

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* At the Summer Assize for Hertford, 1783, one Davies was indicted and tried "for hunting and killing a Fallow Deer, in an inclosed Park," on 9 Geo. I. c. 22. Though the Prisoner was convicted, yet a question was reserved for the opinion of the twelve Judges, whether that Act was not *virtually* repealed by 16 Geo. III. c. 30. The Judges decided that it was; in consequence of which the Defendant, at the ensuing Assizes, was discharged. 2 East's Pl. C. § 609.

No. XLIV. 16 Geo. III. c. 30.

kept without the consent of the owner, or without being otherwise duly authorised, or shall be aiding abetting or assisting therein or thereunto, every person so offending by coursing hunting shooting at or otherwise attempting to kill wound or destroy or by aiding therein or thereunto shall forfeit for every such offence the sum of twenty pounds; and every person so offending by killing wounding or destroying, or by taking in any slip noose toyle or snare, or by carrying away or by aiding therein respectively, shall for every deer so wounded killed destroyed taken or carried away forfeit and pay the sum of thirty pounds; and if the offender in any of the cases aforesaid shall be a keeper of or person in any manner entrusted with the custody or care of deer in the forest chase purlieu ancient walk or inclosed park paddock or wood or other inclosed place where the offence shall be committed, every such offender shall forfeit and pay double the penalty hereinbefore appointed to be paid by other offenders; and if any person or persons after having been convicted of any of the aforesaid offences shall offend a second time against this Act by committing any of the aforesaid offences, such second offence whether it be the same as the first offence or be any other of the aforesaid offences shall be deemed and adjudged to be felony, and the person guilty thereof being lawfully convicted upon indictment shall be transported to one of his Majesty's plantations in *America* for the space of seven years.

Persons convicted under former Acts, still liable to Penalties, &c.

II. And be it further enacted, That every person who hath been or before the commencement of this Act shall be convicted under any statute now in force, for unlawfully hunting coursing killing taking or carrying away any deer out of any forest chase purlieu ancient walk park paddock wood or inclosed ground, shall be subject and liable to the several pains and penalties by such statute provided, in like manner as if this Act had not been made; and in case any such offender shall after the commencement of this Act be guilty and convicted of any of the aforesaid offences against this Act (the legal proof of such first or former conviction having been first made), every such person shall be deemed and adjudged to have committed a second offence against this Act in like manner as if this Act had been in force at the time of such first conviction and as if such conviction had been made under the provisions of this Act.

How Justices to proceed.

'III. And to the intent that the prosecution of persons who shall 'offend a second time in manner aforesaid may be carried on with as 'little expence and trouble as is possible,' Be it further enacted, That the justice before whom any person shall after the commencement of this Act be convicted for the first time of any of the offences before described shall transmit such conviction under his hand and seal to the quarter session which next after such conviction shall be holden for the county riding division city town or place wherein such first offence shall be committed, there to be filed by the clerk of the peace and to be kept amongst the records of the peace; and such conviction so filed or a true copy thereof certified and subscribed by such clerk of the peace shall be sufficient evidence to prove the conviction of such first offence as aforesaid.

Justices may grant Warrants to search.

IV. And be it further enacted, That it shall be lawful for any one justice of the peace upon complaint made to him on oath by any credible persons that there is reason to suspect any person or persons of having in his her or their custody or possession or in any dwelling-house outhouse yard garden or place any red or fallow-deer, which shall have been unlawfully killed, or the head skin or other part thereof, or any slip noose toyle snare or other engine for the unlawful taking of deer, by warrant under his hand and seal to cause such person and persons and such dwelling-house outhouse garden or place to be searched; and if any red or fallow-deer suspected to have been unlawfully killed, or the head skin or other part thereof, or any slip noose toyle snare or other engine suspected to be used for the unlawful taking or killing of deer shall be found in his her or their custody or possession, or in such dwellinghouse outhouse garden or place, to cause the same and such person or persons so having possession or in whose dwelling-house outhouse garden or other place the same shall be found to be brought before any justice of

the peace having jurisdiction; and if such person or persons shall not produce before such justice the party of whom he she or they received the same, or satisfy such justice that he she or they came lawfully by such deer or the head skin or other part thereof, or had a lawful occasion for such slip noose toyle snare or other engine, or did not keep the same for any unlawful purpose, then every such person shall forfeit any sum not exceeding thirty pounds nor less than ten pounds, at the discretion of such justice.

In case Persons cannot be convicted, how Justices to proceed.

V. And be it further enacted, That if any red or fallow deer suspected to have been unlawfully killed, or the head skin or other part of such deer, shall on a search under a warrant from any justice of the peace be found in the possession or custody of any person or persons or in any dwelling-house outhouse garden or other place, or shall be proved to have been in the possession house outhouse garden or place of any person or persons who may be justly suspected to have come dishonestly or unlawfully by the same as aforesaid; and such person or persons so in possession or the owner or occupier of such dwelling-house outhouse garden or other place shall not under the provisions aforesaid be liable to conviction; then and in every such case for the discovery of the party or parties who actually killed or stole such deer, it shall and may be lawful to and for any justice of the peace having jurisdiction as the evidence given and the circumstances of the case shall require, to summon before him at his discretion every person through whose hands such deer or the head skin or other part thereof so found shall appear to have passed; and if the person or persons from whom such deer or the head skin or other part thereof shall appear to have been first received, or who having had possession thereof shall not give proof to the satisfaction of such justice, that he she or they came lawfully by the same, such person or persons shall on every conviction forfeit and pay any sum not exceeding thirty pounds nor less than ten pounds, at the discretion of such justice.

Suspected Persons, &c.

VI. And be it further enacted, That in case it shall appear on the oath of a credible witness that any person or persons hath or have had in his her or their possession house out-house garden or place any red or fallow deer, or the skin head or other part thereof, and shall be reasonably suspected to have come dishonestly or unlawfully thereby, then and in every such case every such person or persons and all other persons through whose hands the same shall appear to have passed under the like suspicion shall and may be proceeded against in like manner and form, and on conviction shall be subject and liable to the same penalty or penalties as if such deer or the head skin or other part thereof had been found in the possession house out-house garden or place of such person or persons upon a search made under and by virtue of any such warrant as aforesaid.

Penalty on setting Nets, &c.

VII. And be it further enacted, That in case any person or persons shall set lay or use any net wire slip noose toyle or other engine for the purpose of taking or killing deer within or upon any forest chace purlieu or ancient walk, or in the ring or outer fence or bank dividing the same from the adjoining lands, or in any inclosed park paddock wood or ground where deer are have been or shall be usually kept, such person or persons not being the owner of such forest chace purlieu ancient walk park paddock wood or ground or entrusted with the care of the deer within the same, and shall be convicted of any of such offences, every such offender shall forfeit and pay for the first offence any sum not exceeding ten pounds nor less than five pounds; and if afterwards convicted of any of the offences last mentioned, shall on every conviction after the first, forfeit and pay any sum not exceeding twenty pounds nor less than ten pounds; which said respective forfeitures shall be set at the discretion of the justice or justices before whom the offender or offenders shall be convicted of such first or further offence.

Penalty on pulling down Pales, &c.

VIII. And be it further enacted, That if any person or persons shall at any time wilfully pull down or destroy or cause to be wilfully pulled down or destroyed the pale or pales or any part of the walls of any forest chace purlieu ancient walk park paddock wood or other ground where any red

No. XLIV. 16 Geo. III. c. 30.

or fallow deer shall be then kept, without the consent of the owner or person chiefly entrusted with the custody thereof or being otherwise duly authorised, every person so offending shall be subject unto the forfeiture and penalty hereby inflicted for the first offence of killing of any deer.

Penalty on carrying Fire-arms, &c.

IX. And be it further enacted, That if any person or persons carrying any gun or other fire-arms or any sword staff or other offensive weapon, shall come into any forest chace purlieu or ancient walk or into any inclosed park paddock wood or into any other ground where deer are usually kept, be the same inclosed or not inclosed, with an intent unlawfully to shoot at course or hunt or to take in any slip noose toyle snare or other engine, or to kill wound destroy or take away any red or fallow deer, it shall be lawful for every ranger or keeper or person entrusted with the care of such deer to seize and take from such person and persons in and upon such forest chace purlieu ancient walk park paddock wood or other ground, to and for the use of the owner thereof respectively, all such guns fire-arms slips nooses toyles snares or other engines and all dogs there brought for coursing deer, in the same and like manner as the gamekeepers of manors are empowered by law within their respective manors to seize and take dogs nets or other engines in the custody of persons not qualified by the laws to keep the same, and if any such person or persons shall there unlawfully beat or wound any ranger or keeper or his or their servants or assistants in the execution of his or their office or offices, or shall attempt to rescue any person in the lawful custody of any such ranger keeper servant or assistant, every person so offending shall be deemed and adjudged to be guilty of felony, and on being lawfully convicted on indictment shall be transported to one of his Majesty's plantations in *America* for the space of seven years.

How Justices to proceed on Information of Offences.

X. And be it further enacted, That upon complaint or information upon oath of any one or more credible witness or witnesses before any one justice of the peace having jurisdiction of any offence committed against this Act, it shall and may be lawful to and for such justice (except in such cases only where the justice is specially directed previously to summon the party before him) to cause the person or persons who shall be charged by such complaint or information to be apprehended by warrant under the hand and seal of such justice, and to be brought before him at such time and place as shall be specified in and by such warrant, and thereupon such justice shall and may proceed to hear the matter of such complaint or information, and to adjudge and determine the same; and in such case where it is provided by this Act that the party complained of shall be summoned to appear, if the party so summoned shall not appear according to such summons, then upon due proof made of the service of such summons either personally or by leaving the same at his dwelling-house lodgings or other usual place of abode, it shall be lawful for the justice before whom the party was so summoned to appear to apprehend such party by warrant and to proceed as if no previous summons had been directed by this Act.

Penalties.

XI. And be it further enacted, That all the pecuniary penalties of this Act shall be recoverable before one or more justice or justices of the peace for the county or other division in which the offence shall be committed on proof of the offence by the oath of one or more credible witness or witnesses, or on confession of the offender; and one moiety of each penalty shall belong to the King's Majesty his heirs and successors, and be paid for his and their use into the hands of such person or persons as the said justice or justices shall direct, and the other moiety thereof shall belong and be paid to the informer or informers prosecuting for the same; and in case of non-payment thereof with the charges incident to the conviction immediately upon the conviction the said penalty or penalties and the charges incident shall be levied by distress and sale of the goods and chattels of every such offender by warrant under the hand and seal or hands and seals of the justice or justices before whom such conviction shall be made, and for want of sufficient

distress the offender or offenders, except in such cases only where it is otherwise provided by this Act, shall be sent by the said justice or justices to the common gaol of the county or place where the offence shall be committed for the space of one whole year, without bail or mainprize, unless the said penalty and charges incident shall be sooner paid.

XII. 'And to the end that persons convicted of any of the offences 'for which pecuniary penalties are inflicted by this Act may not by 'flight or removal after conviction evade imprisonment where such pe-'nalties shall not be paid on conviction and sufficient distress cannot 'be found for raising such penalties,' Be it further enacted, That it shall and may be lawful for the justice or justices of the peace before whom any offender shall be convicted of having incurred any pecuniary penalty of this Act, immediately after such conviction to order him or her into custody in case he or she shall not immediately pay the penalty due on such conviction during such time not exceeding three days, as such justice or justices shall think proper to allow for return of the warrant for raising the penalty by distress and sale as aforesaid.

Proviso.

XIII. Provided always, That if it shall appear to the satisfaction of such justice or justices, either by the confession of the party convicted or otherwise, that such party hath not goods or chattels sufficient whereon to levy the penalty or penalties so due, then and in such case the said justice or justices shall and may, without issuing any warrant of distress, proceed to commit the party so convicted as if a warrant of distress had been issued, and a *nulla bona* returned thereon.

Regulations where Security is given.

XIV. Provided also, That if any person committed for any first offence against this Act shall before his commitment to prison procure security to be given by two sufficient sureties to the satisfaction of the justice or justices before whom he shall be so convicted, for payment of the penalty or penalties incurred with the charges incident, within six days inclusive of the day of conviction, then and in such case it shall be lawful for such justice or justices to accept such security, and upon non-payment thereof at the time to be stipulated for that purpose to cause the party convicted and his said sureties to be apprehended by warrant under his or their hand and seal or hands and seals, and them to commit to the common gaol of the county or place where the offence was committed for such space of time as the party convicted was subject and liable to have been imprisoned in case no such security had been given, unless the penalty or charges shall be sooner paid.

Keeper may apprehend Persons, &c.

XV. And be it further enacted, That it shall and may be lawful for any keeper or under keeper of any forest chace purlieu ancient walk paddock park or other ground inclosed where deer are have been or shall be usually kept and their servants or assistants to seize and apprehend upon the spot any person or persons whom they shall discover in the actual fact of hunting coursing killing wounding shooting at taking destroying or carrying away any red or fallow deer from any such forest chace purlieu or ancient walk, whether inclosed or not, or in any inclosed park paddock wood or in any other inclosed ground or attempting so to do, or in setting or laying any net wire slip noose toyle snare or other engine therein for the taking killing or destroying of deer therein, and to carry such offender or offenders before some neighbouring justice of the peace having jurisdiction, to be dealt with according to law.

Offenders committed may be enlarged.

XVI. And be it further enacted, That in case any offender for his first offence against this Act shall for want of a sufficient distress be committed to gaol, and shall whilst in gaol obtain the consent in writing of the prosecutor and also of the owner ranger forester keeper or other person chiefly entrusted with the care of the deer in the forest chace purlieu ancient walk park paddock or place wherein the offence was committed, for his enlargement; that then and in every such case it shall and may be lawful to and for the justices of the peace having jurisdiction, at their general or quarter sessions to cause such offender to be brought before them, and thereupon by their order to direct the keeper of such gaol to set such offender at liberty; and the said keeper is hereby directed to obey such order accordingly; any thing herein-before contained to the contrary notwithstanding.

No. XLIV.
16 Geo. III. c. 30.

Discovery, &c.

XVII. And for the better discovery of offenders against this Act be it further enacted, That any person who shall offend against this Act, and shall make discovery of any other person or persons who hath or have offended against the same so as he she or they be duly convicted of such offence according to this Act; then and in such case such discoverer shall be discharged of all the forfeitures and penalties of this Act by him her or them incurred previous to such discovery.

How Justices to proceed for Conviction of Offenders.

XVIII. 'And in order to prevent the quashing of convictions of offenders against this Act for want of form,' Be it further enacted, That the conviction and convictions of all and every offenders against this Act shall be certified by the justice or justices of the peace before whom the same shall be made to the next general quarter sessions of the peace to be filed amongst the records of the said sessions; and that such conviction shall be fairly written on parchment or paper in the following form of words as the case shall happen, or in any other form of words to the like effect; that is to say, (to wit),

Form of Conviction.

'BE it Remembered, that on the day of
' in the year *A. B.* was,
' upon the complaint of *C. D.* convicted before
' of the Justices of the Peace for
' in pursuance of an Act passed in the
' year of the reign of his Majesty King *George* the
' Third, for [*as the case shall be.*]
' Given under hand and seal, the day and year
' above written.'

Which said conviction shall be good and effectual in law to all intents and purposes, and shall not be quashed set aside or adjudged void or insufficient for want of any form or words whatsoever.

Certiorari not allowed, unless, &c.

XIX. And be it further enacted, That no *certiorari* shall be allowed to remove any conviction made or other proceedings of for or concerning any matter or thing in this Act, unless the party or parties convicted shall before the allowance of such *certiorari* become bound to the person or persons prosecuting in the sum of one hundred pounds with sufficient sureties, as the justice or justices of the peace before whom the offender was convicted, with condition to pay unto the said prosecutors within thirty days after such conviction confirmed on a *procedendo* granted their full costs and damages to be ascertained upon their oaths; and shall become also bound to the justice or justices of the peace before whom such conviction was made, with such sufficient sureties as such justice or justices shall approve of, in the penalty of sixty pounds for each offence, with condition to prosecute such writ of *certiorari* with effect, and to pay such justice or justices the forfeitures due by such conviction to be distributed as by this Act is directed, or to render the person or persons convicted to such justice or justices within thirty days next after such conviction shall be confirmed or a *procedendo* granted; and that in default thereof it shall be lawful to proceed to levy the penalty mentioned in such conviction in such manner as if no such *certiorari* had been awarded. (1.)

Confirmation of Convictions.

XX. And be it further enacted, That after the confirmation of any conviction or convictions upon this Act by any of the superior courts at *Westminster*, and delivering the rule to the said justice or justices whereby such conviction or convictions hath or have been so confirmed, it shall and may be lawful for such justice or justices to proceed against the party or parties convicted in the same manner as if a *procedendo* had been granted.

Appeal.

XXI. Provided always and it is hereby declared and enacted, That if any person or persons shall think him her or themselves aggrieved by the judgment or determination of any justice or justices of the peace upon conviction of or for any of the offences in this Act, and shall not have sought his remedy by removing the matter by *certiorari* as aforesaid, such

(1) Vide Rex v. Eaton, 2 T. R. 285.

person or persons may appeal from the judgment of the said justice or justices to the general or quarter sessions of the peace to be held for the said county division or place where such person or persons was or were convicted next after the expiration of twenty days from the time of such conviction; but the person or persons so appealing shall and he she and they are hereby required and directed to give at least six days notice in writing to the prosecutor or prosecutors of such person or persons as shall so appeal of such his her or their intention of bringing and prosecuting such appeal and of the matter thereof, and shall enter into recognisance before some justice or justices of the peace for the county division or place wherein the conviction or judgment was made or given, with two sufficient sureties to be approved by the said justice or justices on conviction, to appear and try such appeal at the general or quarter sessions which shall be held in and for the county division or place wherein such conviction or judgment was made or given, next and immediately after the expiration of ten days from the time of such conviction, and to abide by the order or determination of such court, and for payment of such costs and charges as shall be awarded at the said court; and every such appeal and appeals shall by the court at the said general or quarter sessions to which such appeal or appeals is or are made be then examined and the facts and circumstances of the case fully inquired into and the matter then finally heard and determined; and in case such judgment determination or conviction as aforesaid shall be then and there affirmed, the party appealing shall pay unto the prosecutor or prosecutors his her or their full costs, to be ascertained by order of the said court of general or quarter sessions. (1.)

XXII. Provided also, that in case any person or persons thinking him her or themselves aggrieved as aforesaid shall have paid the penalty inflicted by this Act for the offence of which he she or they shall have been convicted or shall be then imprisoned; every such person or persons having so paid or being so imprisoned may appeal to such judgment order determination or conviction as aforesaid, on entering into recognisance by himself herself or themselves only, and without any surety or sureties conditioned as before mentioned, the said penalty remaining in the hands of such justice or justices or such person or persons continuing in prison in the mean time and until the merits of the said appeal shall be heard and finally determined.

Proceedings not to be quashed, &c.

XXIII. Provided also, That no such conviction made or judgment given as aforesaid shall be set aside by the said court of general or quarter sessions for want of form or for want of stating or through the mistating of any facts circumstances or matter whatsoever, in case the facts alleged in the said conviction or on which the same shall be grounded shall be proved to the satisfaction of the said court; but such appeal and appeals shall be decided on the merits of the case only; nor shall such conviction or judgment be removed or removeable by *certiorari* or any other writ or process whatsoever into any of his Majesty's courts of record at *Westminster;* any law or statute to the contrary notwithwithstanding.

General Issue.

Treble Costs.

XXIV. Provided also and be it enacted, That if any person or persons shall be sued or prosecuted for any matter or thing which he or they shall do in pursuance of this Act, it shall and may be lawful to and for the person or persons so sued or prosecuted to plead the general issue and give the special matter in evidence; and if a verdict shall pass for the defendant or the plaintiff shall become nonsuit or suffer a discontinuance, or if upon a demurrer judgment shall be given against the plaintiff, the defendant shall have and recover his treble costs and have the like remedy for the same as any defendant hath in any other case by law.

(1.) If an Appeal be entered without notice, the Sessions have no authority to adjourn it to the next Sessions. Where the Sessions did so adjourn the Appeal, and at the next Sessions it was dismissed for want of notice, the Court refused to grant a Mandamus to the Justices to re-hear it. Rex *v.* Oxfordshire (Justices) 1 M. & S. 446.

No. XLIV.
16 Geo. III. c. 30.

Prosecution within Twelve Months.

XXV. And be it further enacted, That every prosecution for any offence against this Act shall be commenced within twelve calendar months but not after from the time of the offence committed; and that such persons as shall be prosecuted under this Act for any of the offences aforesaid shall not be liable to prosecution for the same offences under any other Act of Parliament or in any court of attachment swainmote eyre or any forest court.

Limitation of Actions.

XXVI. And be it further enacted, That all actions writs and prosecutions to be commenced against any person or persons for any thing to be done under or in pursuance of this Act shall be laid and tried in the county or place where the fact was committed, and shall be commenced within six calendar months after the fact committed and not otherwise.

Commencement of this Act.

XXVII. And be it further enacted, That this Act shall commence and begin to be in force on the tenth day of *June* in the year of our Lord one thousand seven hundred and seventy-six: And from and immediately after the commencement thereof, so much of the thirteenth chapter of the first part of the statutes made in the thirteenth year of the reign of *Richard* the Second, as inflicts a penalty on those who shall use heys nets or other engines for destroying deer; so much of the eleventh chapter of the statutes made in the nineteenth year of the reign of King *Henry* the Seventh, as relates to deer; and also so much of an Act made in the fifth year of the reign of Queen *Elizabeth*, intituled 'An Act for punishing of unlawful taking Fish Deer or Hawks,' as relates to deer; and also so much of an Act made in the third year of the reign of King *James* the First, intituled 'An Act against unlawful hunting and stealing of Deer and Conies,' as relates to deer; and also so much of an Act made in the seventh year of the reign of the said King *James* the First, intituled 'An Act for the Explanation of one Statute made in the second Session of this present Parliament,' intituled "An Act against unlawful hunting and stealing of Deer and Conies," as relates to deer, except such part thereof as repeals any part of the statutes of the third of *James* before-mentioned; and an Act made in the thirteenth year of the reign of King *Charles* the Second, intituled 'An Act to prevent the unlawful coursing hunting or killing of Deer;' as also an Act made in the third and fourth years of the reign of their late Majesties King *William* and Queen *Mary*, intituled 'An Act for the more effectual Discovery and Punishment of Deer Stealers,' and also an Act made in the fifth year of the reign of his late Majesty King *George* the First, intituled 'An Act for making more effectual an Act of the third and fourth years of the reign of King *William* and Queen *Mary*, intituled "An Act for the more effectual Discovery and Punishment of Deer Stealers;" and also so much of an Act made in the tenth year of the reign of his late Majesty King *George* the Second, intituled 'An Act for continuing an Act for the more effectual punishing wicked and evil-disposed persons going armed in disguise and doing injuries and violences to the persons and properties of his Majesty's subjects and for the more speedy bringing the offenders to justice, and for the continuing two clauses to prevent the cutting or breaking down the bank of any river or sea bank, and to prevent the malicious cutting of hop binds, contained in an Act passed in the sixth year of his present Majesty's reign, and for the more effectual punishment of persons removing any materials used for securing marsh or sea-walls or banks and of persons maliciously setting on fire any mine pit or delph of coal or cannel coal, and of persons unlawfully hunting or taking any red or fallow deer in forests or chaces, or beating or wounding keepers or other officers in forests chaces or parks; and for the more effectually securing the breed of wild fowl;' as relates to the second conviction of any person or persons for unlawfully coursing hunting taking in toyles killing wounding or taking away any red or fallow deer in any open or unenclosed forest or chace or relates to beating or wounding keepers or other officers in forests chaces or parks, shall be and the same are hereby respectively repealed.

Parts of various Statutes repealed.
13 Rich. 2.
19 Hen. 7.
5 Eliz.
3 Jac. 1.
7 Jac. 1.
13 Car. 2.
5 Geo. 1.
3 & 4 W. & M.
10 Geo. 2.

XXVIII. Provided always and be it further enacted, That nothing contained in this Act shall extend to that part of *Great Britain* called *Scotland*.

[No. XLV.] 39 Geo. III. c. 34. A. D. 1799.—An Act for repealing two Acts, passed in the Thirty-sixth Year of the Reign of his present Majesty, which limit the Time for killing Partridges in *England* and *Scotland;* and for amending so much of an Act, passed in the Second Year of the Reign of his present Majesty, as relates to such Limitation within that Part of *Great Britain* called *England,* by making other provisions for that Purpose.

No. XLV. 39 Geo. III. c. 34.

'WHEREAS by an Act passed in the second year of the reign of his present Majesty, intituled "An Act for the better preservation of the Game in that Part of *Great Britain* called *England;*" it was amongst other things enacted, That no person or persons after the first day of *June* one thousand seven hundred and sixty-two should upon any pretence whatsoever take kill destroy carry sell buy or have in his her or their possession or use any partridge between the twelfth day of *February* and the first day of *September* in any year, under the penalty therein mentioned: And whereas by another Act passed in the thirty-sixth year of the reign of his present Majesty for amending the said last-mentioned Act, the said restriction was repealed; and it was enacted, That from and after the passing of the said Act no person or persons should on any pretence whatsoever take kill destroy carry sell buy or have in his her or their possession or use any partridge between the twelfth day of *February* and the fourteenth day of *September* in any year, under the same penalty as by the said last-mentioned Act is imposed: And whereas by an Act passed in the thirteenth year of the reign of his present Majesty, intituled "An Act for the more effectual preservation of the Game in that part of *Great Britain* called *Scotland,* and for repealing and amending several of the Laws now in being relative thereto;" it was amongst other things enacted, That every person who should wilfully take kill destroy carry sell buy or have in his or her possession or use any partridge between the first day of *February* and the first day of *September* in any year should be liable to the penalty therein mentioned: And whereas by another Act passed in the thirty-sixth year of the reign of his present Majesty for amending the said last-mentioned Act, the said restriction was repealed; and it was enacted, That from and after the passing of the said Act every person who should wilfully take kill destroy carry sell buy or have in his or her possession or use within that part of *Great Britain* called *Scotland* any partridge between the first day of *February* and the fourteenth day of *September* in any year should be liable to the same penalties and forfeitures as by the said last-mentioned Act are imposed: And whereas it is expedient that the said Acts passed in the thirty-sixth year of the reign of his present Majesty should be repealed, and that the said Act of the second year of his present Majesty should be amended so far as respects the time so therein limited within that part of *Great Britain* called *England,* by making other provisions for that purpose; May it therefore please your Majesty that it may be enacted,' and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act the said recited Acts passed in the thirty-sixth year of the reign of his present Majesty shall be and the same are hereby declared to be repealed.

39 George III. c. 34.
36 Geo. 3. c. 39.
13 Geo. 3. c. 54.
and 36 Geo. 3. c. 54. recited.
36 Geo. 3. c. 39. 54. repealed.

II. And be it further enacted, That from and after the passing of this Act so much of the said recited Act passed in the second year of the reign of his present Majesty as relates to the taking killing destroying using or having any partridge between the twelfth day of *February* and

The Act 2 Geo. 3. c. 19. so far as relates to taking, &c. Partridges between Feb. 12 and Sept. 1 repealed.

No. XLV.
39 Geo. III. c. 34.

the first day of *September* in any year shall be and the same is hereby declared to be repealed.

Persons taking, &c. any Partridge between Feb. 1 and Sept. 1 liable to Penalties of 2 Geo. 3. c. 19.

III. And be it further enacted, That from and after the passing of this Act no person or persons shall on any pretence whatsoever take kill destroy carry sell buy or have in his her or their possession or use any partridge within the kingdom of *Great Britain* between the first day of *February* and the first day of *September* in any year; and if any person or persons shall transgress this Act in the case aforesaid every such person shall be liable to the same penalty as by the said Act of the second year of the reign of his present Majesty is laid and imposed on any person or persons transgressing the same; such penalty to be imposed inflicted recovered applied and disposed of in such and the same manner and under such and the same rules regulations and restrictions as in and by the said Act is provided and directed with respect to the penalty thereby imposed on persons transgressing the said Act.

[No. XLVI.] 39 & 40 George III. c. 50. A. D. 1800.—An Act to extend the Provisions of an Act made in the Seventeenth Year of the Reign of King *George* the Second, intituled "An Act to amend and make more effectual the Laws relating to Rogues, Vagabonds, and other idle and disorderly Persons, and to Houses of Correction."

39 & 40 Geo. 3. c. 50.

'WHEREAS idle and disorderly persons frequently assemble and associate themselves to support and assist each other in the destruction of Game in the night, and are if interrupted guilty of great violence by shooting maiming and beating to the great terror of his Majesty's subjects and to the encouragement of idleness and immorality; and such practices are found by experience to lead to the commission of Crimes and Felonies;' For the suppression thereof, may it therefore please your Majesty that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That if any persons to the number of two or more shall after the passing of this Act enter into or be found in any forest chase park wood plantation paddock field meadow or other open or inclosed ground in the night, that is to say between the hours of eight of the clock at night and six in the morning from the first day of *October* to the first day of *February*, or between the hours of ten at night and four in the morning from the first day of *February* to the first day of *October* in each and every year, having any gun net engine or other instrument for the purpose and with the intent to destroy take or kill or shall wilfully destroy take or kill any hare pheasant partridge heath fowl commonly called black game, or grouse commonly called red game, or any other game; or if any person or persons shall be found with any gun fire-arms bludgeon or with any other offensive weapon protecting aiding abetting or assisting any such persons as aforesaid, it shall and may be lawful to and for the ranger and rangers and to and for the owner and owners occupier and occupiers of any such forest chase park wood plantation paddock field meadow or other open or inclosed ground, and also for his her or their keeper and keepers servant and servants, and also for any other person or persons to seize and apprehend or to assist in seizing and apprehending such offender or offenders by virtue of this Act, and by the authority of the same to convey and deliver such offender or offenders into the custody of a peace-officer, who is hereby authorised and directed to convey such offender or offenders before some one of his Majesty's justices of the peace for the county or place where such offence shall be alleged to have been committed; or in case such offender or offenders shall not be so apprehended, then it shall and may be lawful for any such justice on information before him

Persons to the Number of Two or more found in any Forest, &c. at the Times herein specified, having any Gun or Engine with Intent to kill or take Game, or Persons aiding with offensive Weapons, may be apprehended, and on Conviction before a Justice shall be deemed Rogues and Vagabonds within the Meaning of 17 Geo. 2. c. 5. &c.

No. XLVI. 39 & 40 Geo. III. c 50

on the oath of any credible witness or witnesses to issue his warrant for the apprehension of such offender or offenders, and if upon the apprehension of any such offender or offenders it shall appear to such justice on the oath of any credible witness or witnesses that the person or persons so charged hath or have been guilty of any or either of the said offences, every such person shall be deemed and taken to be a rogue and a vagabond within the true intent and meaning of an Act made in the seventeenth year of the reign of King *George* the Second, intituled, 'An Act 'to amend and make more effectual the laws relating to Rogues and 'Vagabonds, and other idle and disorderly Persons, and to Houses of 'Correction,' and shall suffer such pains and punishments as are directed to be inflicted by any law or statute in force and effect on rogues and vagabonds; and in case any person or persons being so convicted shall again offend against any of the provisions of this Act, such person or persons shall be deemed and taken to be an incorrigible rogue, and shall suffer such pains and punishments as by any law or statute in force and effect are directed to be inflicted on incorrigible rogues.

[No. XLVII.] 42 George III. c. 107.—An Act more effectually to prevent the stealing of Deer.

42 Geo. III. c. 107.

'WHEREAS it is expedient to make some further provision for preventing the stealing of Deer and the punishment of Deer-stealers;' Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act, if any person or persons shall wilfully course or hunt or take in any slip noose toil or snare, or kill wound or destroy or shoot at or otherwise attempt to kill wound or destroy, or shall carry away any red or fallow deer kept or being in the inclosed part of any forest chase purlieu or ancient walk, or any inclosed park paddock wood or other inclosed ground wherein deer are have been or shall be usually kept, without the consent of the owner of such deer or without being otherwise duly authorised, or shall knowingly be aiding abetting or assisting therein or thereunto, every person so wilfully offending as aforesaid in any of the cases above-mentioned shall be deemed and taken to be guilty of felony, and being lawfully convicted thereof upon indictment shall be adjudged to be transported for the term of seven years

Persons who shall illegally hunt, snare, or shoot, &c. Deer in any Inclosure, and their Abettors, guilty of Felony, punishable by seven Years' Transportation.

II. And be it further enacted, That from and after the passing of this Act, if any person shall wilfully course or hunt, or take in any slip noose toil or snare, or kill wound or destroy or shoot at or otherwise attempt to kill wound or destroy, or shall carry away any red or fallow deer kept or being in the uninclosed part of any forest chase purlieu or ancient walk, without the consent of the owner of such deer or without being otherwise duly authorised, or shall knowingly be aiding abetting or assisting therein or thereunto, every person so offending shall for every such act of wilful coursing or hunting, and for every such attempt to kill wound or destroy, and for every deer so taken or killed wounded or destroyed or shot at or carried away as aforesaid, in or from any uninclosed part of any forest chase purlieu or ancient walk, forfeit and pay the sum of fifty pounds, and if the offender in any of the cases aforesaid shall be a keeper of or person in any manner entrusted with the care or custody of deer in the forest chase purlieu or ancient walk wherein the offence shall be committed, he shall for every such offence forfeit and pay double the penalty herein-before enacted to be paid by other offenders

Penalty on Persons committing such Offences in uninclosed Ground, 50*l*

Keepers of Deer, &c. offending, shall forfeit double.

III And be it further enacted, That all powers provisions rules regulations methods forms restrictions and all other matters and things enacted prescribed appointed or contained in and by an Act of the Parliament of *Great Britain*, made in the sixteenth year of the reign of his present Majesty, intituled, 'An Act more effectually to prevent the 'stealing of Deer; and to repeal several former statutes made for the

Provisions of 16 George 3. c. 30 extended to this Act.

No. XLVII. 42 Geo. III. c. 107.

'like purpose,' for or concerning the seizing or apprehending and the conviction of persons offending against the said Act, and for or concerning the recovery application and disposal of the penalties and forfeitures therein mentioned, and for or concerning the time and manner of appealing from convictions and of bringing actions or prosecutions against any person or persons for any thing done under or in pursuance of the said Act, and for or concerning the manner of pleading and other proceedings in such actions and the costs by the said Act given in certain cases, shall so far as the same respectively are applicable be in full force and effect, and be applied and made use of in seizing and apprehending and in convicting offenders against this Act, and in the recovery application and disposal of the penalties and forfeitures hereby imposed, and with respect to the time and manner of appealing from convictions and of bringing actions and prosecutions against any person for any thing done under or in pursuance of this Act, and with respect to the manner of pleading and other proceedings in such actions and the costs thereof, and for all other purposes to which such powers provisions rules regulations methods forms restrictions matters and things or any of them are applicable under this Act, as fully as if the same had been severally herein contained and set forth: Provided always, That in case of non-payment of any pecuniary penalty or forfeiture imposed by this Act with the charges incident to the conviction immediately on the conviction, and for want of sufficient distress of the goods and chattels of the offender or offenders, he and they shall be sent by the justice or justices before whom such conviction shall be made to the common gaol of the county riding or division city town or place where the offence was committed for six months, there to remain without bail or mainprize, unless the penalty and charges incident be sooner paid.

In default of Payment of Penalties, Offenders may be committed for Six Months.

Persons convicted of a second Offence, punishable by a pecuniary Penalty shall be adjudged to be Felons, &c.

IV. And be it further enacted, That if any person or persons after having been duly convicted of any offence for which a pecuniary penalty or forfeiture is imposed either by this Act or by the said Act made in the sixteenth year of the reign of his present Majesty shall offend a second time by committing any offence against this Act, for which a pecuniary penalty or forfeiture is herein-before imposed, such second offence, whether it be the same offence as the first offence or be any other of the said offences, shall be deemed and taken to be a felon, and the person or persons guilty thereof being lawfully convicted upon indictment shall be adjudged to be transported for the term of seven years.

Conviction for first Offences shall be transmitted to Quarter Sessions, and filed for Proof.

V. 'And to the intent that the prosecution of persons who shall offend a 'second time may be carried on with as little expence and trouble as 'may be,' Be it further enacted, That the justice before whom any person shall be convicted for the first time of any offence against this Act, for which pecuniary penalty or forfeiture is imposed, shall transmit such conviction under his hand and seal to the quarter session which next after such conviction shall be holden for the county riding or division city town or place wherein such first offence was committed, there to be filed by the clerk of the peace or other proper officer and kept amongst the records of the court; and such conviction so filed or a true copy thereof certified by such clerk of the peace or other proper officer, or proved to be a true copy, shall be sufficient evidence to prove the conviction for such first offence as aforesaid.

So much of 16 Geo. 3. c. 30. (see § 1.) as inflicts Penalties for hunting or shooting Deer, &c. repealed.

VI. And be it further enacted, That from and after the passing of this Act so much of the said Act made in the sixteenth year of the reign of his present Majesty as imposes or inflicts any penalty forfeiture or punishment on any person who shall hunt or course or take in any slip noose toil or snare, or kill wound or destroy or shoot at or otherwise attempt to kill wound or destroy, or carry away any fallow deer in any forest chase purlieu or ancient walk whether inclosed or not, or in any inclosed park paddock wood or other inclosed ground where deer were or had been or should be usually kept, without the consent of the owner or without being otherwise duly authorised, or who shall be aiding abetting or assisting therein, shall, with respect to the said offences committed after the passing of this Act, be and the same is hereby repealed.

No. XLVII. 42 Geo. III. c. 107.

* VII. Provided always and be it further enacted, That nothing herein contained shall extend to those parts of the united kingdom called *Scotland* and *Ireland*.

* Not to extend to Scotland or Ireland.

[No. XLVIII.] 43 George III. c. 112.—An Act for the better Preservation of Heath Fowl, commonly called Black Game, in the New Forest, in the County of *Southampton*.

[No. XLIX.] 48 George III. c. 93. A. D. 1808.—An Act to repeal so much of an Act of the First Year of King *James* the First, as relates to the Penalties on Shooting at Hares; and also to repeal an Act of the Third Year of King *George* the First, relating to Gamekeepers.

48 George III. c. 93.

1 or 2 Jac. 1. c. 27. § 2.

3 Geo. 1. c. 11.

'WHEREAS an Act was passed in the second year (commonly called the first year) of the reign of King *James* the First, intituled "An Act for the better execution of the intent and meaning of former Statutes made against shooting in Guns, and for the preservation of the Game of Pheasants and Partridges, and against the destroying of Hares with hare-pipes, and tracing Hares in the snow;" whereby it was amongst other things enacted, That every person which should shoot at kill or destroy with any gun cross-bow stone-bow or long-bow any hare, should be subject to the penalties therein mentioned: And whereas it is expedient that the said provision should be repealed: And whereas it is also expedient that a certain other Act passed in the third year of his late Majesty King *George* the First, intituled "An Act to explain and amend several Laws therein mentioned for the better Preservation of the Game should be repealed;" and that other Provisions should be made relating to the Appointment of Gamekeepers;' Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That the said provision of the said recited Act of the second of *James* the First and the said recited Act of the third of *George* the First shall be and the same are hereby repealed.

Provision of 2 Jac. 1. c. 27. so far as relates to Hares; and recited Act of 3 Geo. 1. c. 11. repealed.

II. And be it further enacted, That it shall be lawful for any lord or lady of any manor to appoint and depute any person whatever, whether acting as a gamekeeper to any other person or not, or whether retained and paid for as the male servant of any other person or not, or whether a qualified person or not, to be a gamekeeper to any such manor, with authority to such person as gamekeeper to kill game within the same for his own use or for the use of any other person or persons whatever, to be specified in such appointment or deputation whether qualified or not; and no person so appointed gamekeeper as aforesaid and empowered to kill game for his own use, (1.) or for the use of any other person so specified as aforesaid, and not killing any game for the use of the lord or lady of the manor for which such deputation shall be given, shall be deemed or taken to be or entered or paid for as the gamekeeper or male servant of the lord or lady making such appointment or giving such deputation as aforesaid; any thing in any Act or Acts of Parliament to the contrary notwithstanding.

Lords of Manors may appoint Gamekeepers, whether qualified or not, &c. with Authority to kill Game for their own Use, &c.

III. And be it further enacted, That any person appointed gamekeeper under the authority of this Act to kill game for his own use or the use of any other person shall have the same rights privileges power and authority as if he had been legally qualified and appointed to act as

Gamekeepers so appointed shall have the same rights as if qualified.

(1) A Gamekeeper may be presumed to have killed for the use of the Lord, if nothing appear to the contrary: Spurrier *v.* Vale, 10 E. 413.

No. XLIX. 48 Geo. III. c. 93.

gamekeeper to kill game for the use of the lord or lady of the manor appointing such gamekeeper under any laws in force immediately before the passing of this Act.

[No. L.] 50 George III. c. 67. A. D. 1810.—An Act for the better Preservation of Heath Fowl, commonly called Black Game, in the Counties of *Somerset* and *Devon*.

[No. LI.] 51 George III. c. 120. A. D. 1811.—An Act to amend an Act of the Forty-seventh Year of his present Majesty, for more effectually preventing the stealing of Deer.

51 George III. c. 120.

42 Geo. 3. c. 107.

'WHEREAS by an Act passed in the forty-second year of the reign of his present Majesty, intituled "An Act for more effectually preventing the stealing of Deer," no Provision is made for a mitigation of the pecuniary penalties thereby imposed for committing the several offences therein mentioned, from the want whereof considerable inconvenience has arisen;' Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That on the conviction of any offender under the said Act for wilfully coursing or hunting or taking in any slip noose toil or snare, or killing wounding or destroying or shooting or otherwise attempting to kill wound or destroy, or carrying away any red or fallow deer kept or being in the *uninclosed* part of any forest chase purlieu or ancient walk, without the consent of the owner of such deer or without being otherwise duly authorised, or for knowingly being aiding abetting or assisting therein or thereunto, it shall and may be lawful for the magistrate or magistrates, by and before whom such offender or offenders shall be convicted, to *mitigate the penalty* of fifty pounds thereby imposed for the *first* offence to any sum at their discretion *not less than twenty pounds*, to be levied in the manner directed by the said recited Act: Provided always, that every other part and provision in the said recited Act shall be and remain in full force and effect as if this Act had not been made or passed.

On Conviction of Offenders under the recited Act, any Magistrate may mitigate the Penalty of 50*l.* to 20*l.*

[No. LII.] 56 George III. c. 130.—An Act to repeal an Act, made in the Thirty-ninth and Fortieth Years of his present Majesty's Reign, intituled *An Act to extend the Provisions of an Act, made in the Seventeenth Year of the Reign of King* George *the Second, intituled 'An Act to amend and make more effectual the Laws relating to Rogues, Vagabonds, and other idle and disorderly Persons; and to Houses of Correction;'* and to make other Provisions in lieu thereof.—[1*st July* 1816.]

56 George III. c. 130.

WHEREAS the laws now in force have been found insufficient to prevent idle and disorderly persons from going out armed in the night-time for the destruction of Game: And whereas such practices are found by experience to lead to the commission of felonies and murders: For the more effectual suppression thereof, may it therefore please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That the Act made in the thirty-ninth and fortieth years of his present Majesty, intituled *An Act to extend the Provi-*

39 & 40 G. 3. c. 50. repealed.

sions of an Act made in the Seventeenth Year of King George *the Second, intituled 'An Act to amend and make more effectual the Laws relating to 'Rogues, Vagabonds, and other idle and disorderly Persons; and to Houses of 'Correction,'* be repealed.

No. LII. 56 Geo. III. c. 130.

II. And be it further enacted, That if any person or persons shall after the passing of this Act unlawfully enter into or be found in any forest chase park wood plantation close or other open and inclosed ground in the night-time, that is to say between the hours of eight of the clock at night and seven in the morning from the first day of *October* to the first day of *March*, or between the hours of ten at night and four in the morning from the first day of *March* to the first day of *October* in each and every year, having any gun net engine or other instrument for the purpose and with the intent to destroy take or kill or shall wilfully destroy take or kill any hare rabbit pheasant partridge heath fowl commonly called black game, or grouse commonly called red game, or any other game; or if any person or persons shall be found with any gun fire arms bludgeon or with any other offensive weapon protecting aiding abetting or assisting any such person or persons as aforesaid, every person so offending being thereof lawfully convicted shall be adjudged guilty of a misdemeanor and shall be sentenced to transportation for any term not exceeding seven years, or shall receive such other punishment as may by law be inflicted on persons guilty of misdemeanors, and as the court before which such offenders may be tried and convicted shall adjudge; and if any such offender or offenders shall return into *Great Britain* before the expiration of the term for which he or they shall be so transported, contrary to the intent and meaning hereof, he or they so returning and being thereof duly convicted shall be adjudged guilty of felony, and shall be sentenced to transportation for the term or terms of his or their natural life or lives.

Persons going armed or disguised in the Night-time, with apparent Intent to kill or destroy Game, may, on Conviction, be transported, &c.

III. And for the more easy and speedy bringing the offenders against this Act to justice, Be it further enacted, That it shall and may be lawful to and for the ranger and rangers, and to and for the owner and owners occupier and occupiers of any such forest chase park wood plantation close or other open or inclosed ground, and also for his her or their keeper and keepers servant and servants, and also for any other person or persons to seize and apprehend or to assist in seizing and apprehending such offender or offenders by virtue of this Act, and by the authority of the same to convey and deliver such offender or offenders into the custody of a peace officer, who is hereby authorised and directed to convey such offender or offenders before some one of his Majesty's justices of the peace for the county or place where such offence shall be alleged to have been committed; or in case such offender or offenders shall not be so apprehended, then it shall and may be lawful for any such justice on information before him on the oath of any credible witness or witnesses to issue his warrant for the apprehension of such offender or offenders; and if upon the apprehension of any such offender or offenders it shall appear to such justice on the oath of any credible witness or witnesses that the person or persons so charged hath or have been guilty of any or either of the said offences, it shall and may be lawful for such justice to admit such person or persons so charged to bail, and in default of bail to commit such person or persons to the county gaol until the next general quarter sessions of the peace, or the next general commission of gaol delivery to be holden for the same county or place, there to be tried and dealt with as by this Act is directed.

Such Persons may be apprehended and conveyed before a Justice, who in Default of Bail may commit them.

[No. LIII.] 57 Geo. III. c. 90.—An Act for the Prevention of Persons going armed by Night for the Destruction of Game; and for repealing an Act, made in the last Session of Parliament, relating to Rogues and Vagabonds.—[10*th July* 1817.]

57 Geo. III. c. 90.

WHEREAS idle and disorderly persons frequently go armed in the night-time for the purpose of protecting themselves and aiding and

No. LIII.
57 Geo. III. c. 90.

abetting and assisting each other in the illegal destruction of game or rabbits: And whereas such practices are found by experience to lead to the commission of felonies and murders: For the more effectual suppression thereof, be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That if any person or persons having entered into any forest chase park wood plantation close or other open or inclosed ground, with the intent illegally to destroy take or kill game or rabbits, or with the intent to aid abet and assist any person or persons illegally to destroy take or kill game or rabbits, shall be found at night, that is to say between the hours of six in the evening and seven in the morning from the first day of *October* to the first day of *February*, between seven in the evening and five in the morning from the first day of *February* to the first day of *April*, and between nine in the evening and four in the morning for the remainder of the year, armed with any gun cross-bow fire arms bludgeon or any other offensive weapon, every such person so offending being thereof lawfully convicted shall be adjudged guilty of a misdemeanour, and shall be sentenced to transportation for seven years, or shall receive such other punishment as may by law be inflicted on persons guilty of misdemeanour, and as the court before which such offenders may be tried and convicted shall adjudge; and if any such offender or offenders shall return into *Great Britain* before the expiration of the term for which he or they shall be so transported, contrary to the intent and meaning thereof, he or they so returning and being thereof duly convicted shall be adjudged guilty of felony, and shall be sentenced to transportation for the term or terms of his or their natural life or lives.

Persons found at certain Times within any Forest, &c. with Intent to destroy, take or kill Game, deemed guilty of Misdemeanour.

Transportation for Seven Years.

Offenders returning to be transported for Life.

How Offenders are to be brought to Justice.

II. And for the more easy and speedy bringing the offenders against this Act to justice, Be it further enacted, That it shall and may be lawful to and for the ranger and rangers and to and for the owner and owners occupier and occupiers of any such forest chase park wood plantation close or other open or inclosed ground, and also for his her or their keeper and keepers servant and servants, and also for any other person or persons to seize and apprehend or to assist in seizing and apprehending such offender or offenders by virtue of this Act, and by the authority of the same to convey and deliver such offender or offenders into the custody of a peace officer, who is hereby authorised and directed to convey such offender or offenders before some one of his Majesty's Justices of the Peace for the county or place where such offence shall be alleged to have been committed; or in case such offender or offenders shall not be so apprehended, then it shall and may be lawful for any such justice on information before him on the oath of any credible witness or witnesses to isssue his warrant for the apprehension of such offender or offenders; and if upon the apprehension of any such offender or offenders it shall appear to such justice on the oath of any credible witness or witnesses, that the person or persons so charged hath or have been guilty of the crime of being found armed at night as aforesaid, it shall and may be lawful for such justice to admit such person or persons so charged to bail, and in default of bail to commit such person or persons to the county gaol until the next general quarter sessions of the peace or the next general commission of gaol delivery to be holden for the same county or place, there to be tried and dealt with as by this Act is directed; and if in *Scotland*, until such person or persons so charged shall be dealt with as any person or persons charged with a transportable offence may be dealt with according to the law and practice of *Scotland*.

Persons found in any Forest, &c. at Night with any Engine, &c. for destroying Game may be taken before a Justice.

III. And be it further enacted, That if any person or persons shall after the passing of this Act unlawfully enter into or be found in any forest chase park wood plantation close or other open or inclosed ground at night according to the provisions of this Act with respect to what shall be deemed night for the purposes hereof, having any net engine or other instrument for the purpose and with the intent to destroy take or kill or shall wilfully destroy take or kill game, it shall and may be lawful to and for the ranger and rangers and to and for the owner and owners occupier

and occupiers of any such forest chase park wood plantation close or other open or inclosed ground and for his her or their keeper and keepers servant and servants, and also for any other person or persons to seize and apprehend or to assist in seizing and apprehending such offender or offenders by virtue of this Act, and by the authority of the same to convey and deliver such offender or offenders into the custody of a peace officer, who is hereby authorised and directed to convey such offender or offenders before some one of his Majesty's justices of the peace for the county or place where such offence shall be alleged to have been committed, to be dealt with according to law

IV. And be it further enacted, That an Act made in the last Session of Parliament, intituled *An Act to repeal an Act made in the Thirty-ninth and Fortieth Years of his present Majesty's Reign, intituled 'An Act to 'extend the Provisions of an Act made in the Seventeenth Year of the Reign 'of King* George *the Second, intituled "An Act to amend and make more "effectual the Laws relating to Rogues, Vagabonds, and other idle and disor-"derly Persons, and to Houses of Correction," and to make other Provisions in lieu thereof*, shall be and the same is hereby repealed. 56 Geo. 3. c. 130. repealed.

V. And be it further enacted, That the said Act made in the thirty-ninth and fortieth years of his present Majesty, intituled *An Act to extend the Provisions of an Act made in the Seventeenth Year of the Reign of King* George *the Second, intituled 'An Act to amend and make more effectual the 'Laws relating to Rogues, Vagabonds, and other idle and disorderly Persons, 'and to Houses of Correction,'* shall be and the same is hereby repealed. 39 & 40 Geo 3. c. 50. repealed.

[No. LIV.] 58 George III. c. 75.—An Act for the more effectual Prevention of Offences connected with the unlawful Destruction and Sale of Game.—[5*th June* 1818.]

WHEREAS the selling exposing or offering to sale any hare pheasant partridge moor heath game or grouse is by law prohibited: And whereas it is expedient for the more effectual prevention of offences connected with the unlawful destruction and sale of Game, to provide by law as herein-after is enacted: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That if any person or persons whatsoever, whether qualified or not qualified to kill game, shall buy any hare pheasant partridge moor heath game or grouse, every such person or persons who shall so offend and thereof shall be convicted before any one or more justice or justices of the peace magistrate or magistrates acting for the county riding city town borough division or place where such offence shall be committed by the oath of one or more credible witness or witnesses, shall for every hare pheasant partridge moor heath game or grouse so bought as aforesaid forfeit and pay the sum of five pounds, one half to be paid to the informer, and the other to the poor of the parish where such offence shall be committed, the same to be levied by distress and sale of the offender's goods by warrant under the hand and seal of the justice or justices magistrate or magistrates before whom the offender shall be convicted, rendering the overplus of such distress and sale (if any) to the party or parties, after deducting the charges of making the same; provided that such conviction be made within six calendar months after such offence committed

56 Geo. III. c. 75.

Penalty on any Persons buying Game.

II And for the better discovery of such person or persons as shall buy or sell any hare pheasant partridge moor heath game or grouse, Be it further enacted by the authority aforesaid, That from and after the time of the passing of this Act any person that shall buy sell or offer to sell, or have unlawfully in his possession any hare pheasant partridge moor heath game or grouse, and shall make discovery of any person that hath within six calendar months bought or sold any such game as aforesaid, so as any one shall be convicted of any such offence by virtue of this

For the better Discovery of Persons buying or selling of Game.

No. LIV.
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or any other statute now in force, such discoverer shall be discharged of and from all pains forfeitures and penalties to which he may be and shall have become liable before and at the time of the making such discovery, by reason of the buying or selling or offering to sell or having unlawfully in his possession any such game as aforesaid, any thing in any former statute contained to the contrary notwithstanding; and shall receive the same benefit and advantage as any other informer shall be entitled to by virtue of this Act for such discovery and information: Provided always, that nothing in this Act contained shall be held or construed to discharge such discoverer of or from any pains forfeitures or penalties, in respect whereof a prosecution shall be actually pending or a conviction or judgment shall have been had against him at the time of the making such discovery as aforesaid.

Penalties under this Act may be sued for to the sole Use of Prosecutor.

III. And be it further enacted, That wheresoever any person shall for any offence to be committed against the provisions of this Act be liable or subject to any forfeiture or penalty upon conviction before any justice or justices magistrate or magistrates as aforesaid, it shall and may be lawful for any other person whatsoever either to proceed to recover the said forfeiture or penalty by information and conviction as aforesaid, or to sue for and recover the whole of such penalty for his own use by action of debt or on the case bill plaint or information in any of his Majesty's courts of record, wherein no essoign wager of law or more than one imparlance shall be allowed, and wherein the plaintiff if he recovers shall have his double costs; and that no part of the said penalty recovered in any such suit or action shall be paid or applied to or for the use of the poor of the parish wherein such offence shall be committed: Provided always, that no such action suit bill plaint or information shall be brought or exhibited but within the space of six calendar months next after the offence committed; and that in case of any second prosecution for one offence, the person doubly prosecuted may plead in his defence the former prosecution pending or the conviction or judgment thereupon had.

[No. LV.] 59 George III. c. 102.—An Act for further regulating the Appointment of Gamekeepers in *Wales*. —[12*th July* 1819.]

59 Geo. III. c. 102.

WHEREAS there are now several districts and lands within the principality of *Wales* which are not known to be comprehended within the boundaries of any manors lordships or royalties; and there are also several other districts and lands within the principality which formerly belonged to or formed part or parts of such manors lordships or royalties, but which have been alienated therefrom or enfranchised by the lord or lords for the time being of such manors lordships or royalties, and many of such districts and lands are very extensive: And whereas the owner or owners of such districts and lands cannot, nor can any other person or persons appoint any gamekeeper or other servant to kill game on such lands for the use of the owner or owners thereof, without subjecting such gamekeeper or other servant to the penalties imposed by divers Acts of Parliament made for the preservation of the game; which regulations and enactments have tended greatly to the encouragement of poachers and other idle and disorderly persons to destroy the game within such districts of the said principality: For remedy whereof it is expedient that it be enacted: May it therefore please your Majesty that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the first day of *August* next it shall and may be lawful to and for all and every persons and person being seised in fee or as of freehold or otherwise beneficially entitled in his her or their own right of and in any lands situate and being within the said principality of the full and clear annual rent of five hundred pounds, and

Persons possessing certain Property may appoint Gamekeepers.

not being within the bounds of any manor lordship or royalty, or being within the precinct or bounds of any manor lordship or royalty, shall have been or shall be enfranchised or alienated therefrom; or to appoint by any writing or writings under his her or their hand or hands a gamekeeper to preserve or to course hunt shoot at or kill game for the use of the person or persons who shall make such appointment, in over and upon such his her or their lands and in over and upon the lands of every other person or persons who shall by licence in writing under his her or their hand or hands authorise him her or them to appoint a gamekeeper or gamekeepers or other servant or servants to preserve course hunt shoot at or kill game in over and upon the lands of the person or persons not being within the bounds of any manor lordship or royalty so granting such licence.

Gamekeepers not subject to Penalties under former Acts.

II. And be it further enacted, That every such gamekeeper having such appointment as aforesaid, during the continuance of such appointment shall not be made subject or liable to any penalties imposed by any former statutes of this realm for having any game in his or their custody or possession, or for coursing hunting shooting at or killing game on or upon any lands mentioned in his or their appointment or appointments, and whereon the person or persons making such appointment or appointments has or have any power licence or authority to make or grant any appointment or appointments by virtue of this Act: Provided always, that nothing herein contained shall extend or give or be construed to extend or give any power or authority to any person or persons to make or grant any such appointment or appointments licence or licences to course hunt shoot at or kill game in over or upon his her or their lands situate or being within the precinct or boundary of any manor lordship or royalty, unless such lands shall have been enfranchised or alienated therefrom, without the licence or consent in writing of the proprietor or proprietors of such manor lordship or royalty, having the right to pursue and kill game in upon or over such lands first had and obtained; and where in any existing lease or demise or agreement for demising any lands the lessor or lessors landlord or landlords thereof hath or have not reserved the right or power of hunting shooting or sporting, when no such appointment or appointments licence or licences shall be valid so as to authorise any such gamekeeper or gamekeepers servant or servants to enter upon any such lands to preserve course hunt shoot at or kill game thereon, without the consent in writing of the person or persons in the actual possession of such lands first had and obtained.

Lords of extensive Manors may appoint Gamekeepers for Districts.

III. And whereas the manors lordships and royalties within the said principality are in many instances extremely extensive and comprehend very large tracts of country: And whereas by an Act passed in the ninth year of the reign of Queen *Anne*, intituled *An Act for making the Act of the Fifth Year of her Majesty's Reign for the better preservation of the Game perpetual and for making the same more effectual*, it is among other things enacted, that only one gamekeeper shall be appointed to kill game within any one manor: And whereas such restriction hath on account of the extent of the said manors lordships and royalties been found extremely inconvenient, and tended greatly to the destruction of the game within the said principality; Be it enacted by the authority aforesaid, That the lords and ladies of such manors lordships and royalties and the stewards of the Crown for such manors lordships and royalties as appertain to his Majesty within the said principality shall be and they are hereby authorised respectively to nominate and appoint gamekeepers for such districts and divisions of their respective manors lordships and royalties as they shall think fit; and that each and every gamekeeper so appointed shall have the like powers privileges and authorities within such district or division as any gamekeeper appointed for the whole of a manor hath or would have by virtue of any Act now in force: Provided always, that nothing herein contained shall be construed to authorise the appointment of more than one gamekeeper for the same district or division, and that all appointments under this Act shall be registered with the clerk of the peace in like manner, and be subject to all other regu-

No. LV.
59 Geo. III.
c. 102.

lations which are enacted with respect to the appointment of gamekeepers of manors by any Act now in force

Persons granting Appointments may annul the same, and grant others in lieu thereof.

IV. And be it further enacted, That it shall and may be lawful to and for all and every persons and person who shall or may grant or make any appointment or appointments licence or licences by virtue of this Act, to revoke annul or render void all and every such consent appointments and appointment licences and licence, and to grant or make other consent or consents appointments or licences in lieu thereof as often as to him her or them shall seem proper.

This Act not to extend to Persons killing Game without Certificate.

V. Provided always, That nothing herein contained shall extend or be construed to extend the protection of this Act to any person or persons killing game without a certificate taken out or purchased according to the provisions of the Act now in force respecting game certificates, or in any manner to affect the rights of his Majesty or his successors or of any other person or persons in to or over any manor lordship or royalty within the said principality.

PART VI.

CLASS XX.

*Gaming.**

* The Statutes which have Relation to Gaming, as an illegal Contract, are inserted in Part III. in conformity to the general Arrangement of this Work.

[No. I.] 33 Henry VIII. c. 9.—The Bill for the maintaining Artillery, and the debarring of unlawful Games. (1.)

P.

'MOST humbly complaining, shew unto your Highness your daily orators the bowyers flsetchers stringers and arrowhead-makers of 'this your realm, that where for the advancement and maintenance of 'archery the better to be maintained and had within the same, and for 'the avoiding of divers and many unlawful games and plays occupied 'and practised within this realm to the great hurt and lett of shooting 'and archery, divers good and lawful statutes have been devised enacted 'and made, amongst which one was made in a Parliament holden at '*Westminster* in the third year of your most gracious reign, and the same 'Act made perpetual in the Parliament there holden in the sixth year of 'your said reign; (2) the which good and laudable Act notwithstanding 'divers and many subtil inventative and crafty persons intending to de-'fraud the same estatute sithens the making thereof have found and 'daily find many and sundry new and crafty games and plays, as loget-'ting in the fields slide-thrift otherwise called shove-groat as well within 'the City of *London* as elsewhere in many other and divers parts of this 'realm, keeping houses plays and alleys for the maintenance thereof; by 'reason whereof archery is sore decayed and daily is like to be more and 'more minished, and divers bowyers and fletchers for lack of work gone 'and inhabit themselves in *Scotland* and other places out of this realm, 'there working and teaching their science to the puissance of the same 'to the great comfort of estrangers and détriment of this realm.

33 Hen. VIII. c. 9.

6 Hen. 8. c. 2. 12 Co. 99.

Several new-devised Games the Cause of the Decay of Archery.

II. 'And where also your Grace's subjects bowyers fletchers and 'other artificers aforenamed from time to time resort repair and come 'out of all places of this your realm unto the City of *London* for lack of 'living and do inhabit nigh the same city or in the suburbs of the same 'city and in the streets and lanes of the same city, being no freeman of 'the same city nor bearing neither scot lot nor other charges within your 'said city as other citizens and freemen of the same city do and are 'bound to do and by their oaths are sworn to do, and which citizens and 'freemen of your said city of the mysteries and crafts before rehearsed 'which have been brought up as apprentices from their youth dwelling 'within the freedom of your said City of *London* are always in readiness 'to furnish your Grace's affairs when they shall be commanded; (2) by 'reason of which resort and abode of such foreigners and strangers of 'the mysteries and crafts before rehearsed in the suburbs streets and lanes 'of the same city other cities towns villages and places within this realm 'remain and be unfurnished of artificers and craftsmen before rehearsed 'to the great decay of the archery of this realm; (3) and forasmuch as 'it appeareth by the preamble of the said statute enacted the said third 'year, which was established and made perpetual in the foresaid sixth

(1.) The Proceedings for Penalties in this Act are regulated by 31 Eliz. c. 5. "concerning Informers."—Vi. Part IV. title *Penal Actions and Informations.*

No. I.
33 H. VIII. c. 9.

'year of your most gracious reign, that your Highness calling to your 'most noble and gracious remembrance that by the feat and exercise of 'the subjects of this your realm in shooting in long-bows there hath con-'tinually grown and been within the same great number and multitude 'of good archers, which hath not only defended this realm and the sub-'jects thereof against the cruel malice and danger of their outward ene-'mies in times heretofore past, but also with little number and puissance 'in regard have done many notable acts and discomfitures of war against 'the Infidels and other, and furthermore subdued and reduced divers and 'many regions and countries to their due obeisance, to the great honour 'fame and surety of this realm and subjects and to the terrible dread and 'fear of all strange nations any thing to attempt or do to the hurt or 'damage of them or any of them; (4) yet nevertheless archery and shoot-'ing in long-bows was little used, but daily did minish decay and 'abate more and more, for that much part of the commonalty and poor 'people of this realm whereby of old time the great number and sub-'stance of archers hath grown and multiplied were not of power and abi-'lity to buy them long-bows of yew to exercise shooting in the same and 'to sustain the continual charge thereof; (5) and also by means and oc-'casions of customable usage of tennis-play bowls cloysh and other un-'lawful games prohibited by many good and beneficial statutes by autho-'rity of Parliament in that behalf provided and made, great impoverish-'ment hath ensued and many heinous murders robberies and felonies 'were committed and done, and also the divine service of God by such 'misdoers on holy and festival days not heard or solemnized to the high 'displeasure of Almighty God as by the aforesaid Preamble more plainly 'may appear.

The Causes of of the Decay of Archery.

[III. Men under the Age of Sixty Years shall have Bows and Arrows for shooting.—Men-Children between Seven Years and Seventeen.—Men about Seventeen Years of Age.]

[IV. Who shall shoot at Rovers.—Shooting in Yew Bows.—The Inhabitants of every Town shall cut Butts and shoot at them.]

[V. Bows of Elm, Ash, &c. Repealed by 8 Eliz. c. 10. § 6.]

[VI. The several Prices of the several sorts of Bows. Repealed by 8 Eliz. c. 10. § 6. 22 Ed. 4. c. 4. 3 H. VII. c. 13.]

[VII. Sale of seasonable Timber by one Fletcher to another.]

[VIII. Bowyers and Fletchers, &c. of London, upon Commandment, shall dwell elsewhere.]

[IX. Aliens shall not convey Bows or Arrows beyond the Sea.]

[X. Aliens shall not use shooting in Long-Bows.—Magistrates may hear and determine these Offences.]

The Penalty for Maintenance of a House for unlawful Games.

XI. Be it also enacted by the authority aforesaid, That no manner of person or persons, of what degree quality or condition soever he or they be, from the Feast of the Nativity of *St. John Baptist* now next coming, by himself factor deputy servant or other person shall for his or their gain lucre or living keep have hold occupy exercise or maintain any common house alley or place of bowling coyting cloysh-cayls half bowl tennis dicing table or carding or any other manner of game prohibited by any estatute heretofore made or any unlawful new game now invented or made or any other new unlawful game hereafter to be invented found had or made, (2) upon pain to forfeit and pay for every day keeping having or maintaining or suffering any such game to be had kept executed played or maintained within any such house garden alley or other place contrary to the form and effect of this estatute forty shillings.

The Penalty for resorting to a House of unlawful Games.

XII. And also every person using and haunting any of the said houses and plays and there playing to forfeit for every time so doing six shillings eight pence.

A Placard to keep a House of Gaming. All such Placards made void by 2 & 3 Ph. & M. c. 9.

XIII. And if any person hereafter sue for any placard to have common gaming in his house contrary to this estatute, that then it shall be contained in the same placard what game shall be used in the same house and what persons shall play thereat, and every placard granted to the contrary to be void; (2) and also that the party obtaining any such

No. I.
33 H. VIII. c. 9.

placard before he put the same in execution shall be bound with sufficient sureties with him by recognisances in the Chancery, in a certain sum to be appointed by the discretion of the Lord Chancellor of *England* that he shall not use the said placard contrary to the form thereof.

Magistrates may repress unlawful Games, and punish Offenders.

XIV. Be it further enacted by the authority aforesaid, That it shall be lawful to all and every the justices of peace in every shire, mayors sheriffs bailiffs and other head officers within every city town and borough within this realm, from time to time, as well within liberties as without as need and case shall require, to come enter and resort into all and every houses places and alleys where such games shall be suspected to be holden exercised used or occupied contrary to the form of this estatute; (2) and as well the keepers of the same as also the persons there haunting resorting and playing, to take arrest and imprison and them so taken and arrested to keep in prison unto such time as the keepers and maintainers of the said plays and games have found sureties to the King's use to be bound by recognisance or otherwise no longer to use keep or occupy any such house play game alley or place; (3) and also that the persons there found be in like case bound by themselves or else with sureties by the discretions of the justices mayors sheriffs bailiffs or other head officers no more to play haunt or exercise from thenceforth in at or to any of the said places or at any of the said games.

Farther Provisions relating hereto. 2 Geo. 2. c. 28. § 9.

Searching of Houses where unlawful Games be kept.

XV Also be it further enacted by the authority aforesaid, That the mayors sheriffs bailiffs constables and other head officers within every city borough and town within this realm where any such officers shall fortune to be, as well within the franchises as without, shall make due search weekly or at the farthest at all times hereafter once every month in all places where any such houses alleys plays or places shall be suspected to be had kept and maintained; (2) And if the said mayors sheriffs bailiffs constables and other head officers within their cities boroughs and towns, as well within franchises as without, do not make due search a the farthest once every month, if the case so require, according to the tenor of this Act, and do not execute the same in all things according to the purport and force of the same; that then every such mayor sheriff bailiff constable or other head officer to pay and forfeit for every month not making search nor executing the same, *xl. s.*

Persons prohibited to play at unlawful Games out of Christmas. 1 Lutw. 133.

XVI. Be it also enacted by the authority aforesaid, That no manner of artificer or craftsman of any handicraft or occupation husbandman apprentice labourer servant at husbandry journeyman or servant of artificer mariners fishermen watermen or any serving-man shall from the Feast of the Nativity of *St. John Baptist* play at the tables tennis dice cards bowls clash coyting logating or any other unlawful game out of *Christmas* under the pain of *xx. s.* to be forfeit for every time; (2) and in *Christmas* to play at any of the said games in their masters' houses or in their masters' presence; (3) and also that no manner of persons shall at any time play at any bowl or bowls in open places out of his garden or orchard upon the pain for every time so offending to forfeit *vi. s. viii. d.*; (4) and that all justices of peace mayors bailiffs sheriffs and all other head officers and every of them finding or knowing any manner of person or persons using or exercising any unlawful games contrary to this present statute shall have full power and authority to commit every such offender to ward, there to remain without bail or mainprize until such time that they so offending be bounden by obligation to the King's use, in such sums of money as by the discretions of the said justices mayors bailiffs or other head officers shall be thought reasonable, that they or any of them shall not from henceforth use such unlawful games.

Playing at Bowls. Certain Officers may commit Offenders to Prison.

All other Statutes made against unlawful Games and for the Maintenance of Artillery repealed.

XVII. Be it further enacted by the authority aforesaid, That all other statutes made for the restraint of unlawful games or for the maintenance of artillery as touching the penalties or forfeitures of the same shall be from henceforth utterly void; (2) and that all informations plaints actions or suits that shall be taken or sued upon any part of this statute shall be commenced within the year after the offence committed and done or otherwise no advantage or suit thereof to be taken.

No. I.

33 H. VIII. c. 9.

Within what Time any Suit shall be prosecuted upon this Statute, and who shall have the Forfeitures.

XVIII. And where any such forfeitures shall happen to be found within the precinct of any franchise leet or lawday, then the lord of the said franchise leet or lawday to have the one moiety thereof and the other moiety thereof to any of the King's subjects that will sue for the same in any of the King's courts by action information bill or otherwise, in which action or suit the defendant shall not be admitted to wage his law, nor any protection nor essoign shall be allowed; (2) and where such forfeiture shall be found out of the precinct of any franchise leet or lawday that the moiety of all such forfeitures shall be to the King our Sovereign Lord and the other moiety thereof to any the King's subjects that will sue for the same by bill plaint action information or otherwise in any of the King's courts, in which suit or action the defendant shall not be admitted to wage his law, nor any protection or essoign shall be allowed.

Proclamation of this Statute.

XIX. And to the intent that every person may have knowledge of this Act and avoid the danger and penalties of the same, Be it enacted by the authority aforesaid, That all mayors bailiffs sheriffs and all other head officers shall four times in the year, that is to say every quarter once, make open proclamation of this present Act in every market to be holden within their several jurisdictions and authorities.

XX. And also that the justices of gaol delivery assizes and justices of peace do cause this same to be proclaimed in their several circuits and sessions before them holden, and that this statute shall begin to take its effect concerning the penalties of the same from the said Feast of *St. John Baptist* now next coming and to continue and endure for ever.

Leases of Houses where unlawful Games be used.

XXI. Provided alway and be it enacted by the authority aforesaid, That if any person or persons have taken by lease, whether it be by word writing or otherwise, any house alley or place wherein any such unlawful game now is and at the time of such lease made was used, that then every such lessee shall at the liberty of him or them to whom such lease is made their executors administrators or assigns from the said Feast of the Nativity of *St. John Baptist* be utterly void, except it be for breach of covenants or agreements or payment of rent due or to be due at the said Feast or any time before, so that then at the same Feast or within one month next after the same the said lessee give knowledge to such lessor or lessors their heirs and assigns that he will no longer occupy the same, and that then it shall be lawful to the inheritor lessor or owner thereof or to his heirs or assigns in the same house alley or place to re-enter.

The Servant by Licence may play with his Master.

XXII. Provided also and be it enacted by the authority aforesaid, That it shall be lawful for every master to licence his or their servants to play at cards dice or tables with their said master or with any other gentleman repairing to their said master openly in his or their house or in his or their presence according to his or their discretion; (2) and that it shall be lawful to every such servant for every time so being commanded or licensed by his said master as is aforesaid to play at cards dice or tables with his said master or other gentleman so to him repairing; any thing in this Act to the contrary notwithstanding.

In what Cases Servants may play at Dice, Cards, Tables, Bowls or Tennis.

XXIII. Provided also and be it enacted by the authority aforesaid, That it shall be lawful to every nobleman and other having manors lands tenements or other yearly profits for term of life in his own right or in his wife's right to the yearly value of an hundred pounds or above to command appoint or licence by his or their discretion his or their servants or family of his or their house or houses for to play within the precinct of his or their houses gardens or orchards at cards dice tables bowls or tennis as well amongst themselves as other repairing to the same house or houses; (2) and that they so playing by commandment appointment or licence as is aforesaid shall not incur any danger or penalty contained in this Act for the same; this Act or any thing therein contained to the contrary thereof in any wise notwithstanding.

Suits depending at this time upon any Statute repealed.

XXIV. Provided alway and be it enacted by the authority aforesaid, That all informations actions and suits now depending in any of the King's courts for or concerning any penalty or forfeiture contained in any of the said statutes by this Act repealed, and no judgment therein yet

Enforced by 2 Geo. 2. c. 28.

given, the same informations actions and suits shall be remain and stand as good and effectual in the law to all intents constructions and purposes as if this Act had never been had ne made; any thing in this Act contained to the contrary thereof in any wise notwithstanding.

No. I. 33 H. VIII. c. 9.

[No. II.] 16 Charles II. c. 7.—An Act against deceitful, disorderly, and excessive Gaming.

[Inserted ante, Part III.]

[No. III.] 10 & 11 William III. c. 17.—An Act for suppressing of Lotteries.

10 & 11 W. III. c. 17.

'WHEREAS several evil-disposed persons for divers years last past have set up many mischievous and unlawful games called *Lotteries*, not only in the cities of *London* and *Westminster* and in the suburbs thereof and places adjoining, but in most of the eminent towns and places in *England* and in the dominion of *Wales*, and have thereby most unjustly and fraudulently got to themselves great sums of money from the children and servants of several gentlemen traders and merchants and from other unwary persons to the utter ruin and impoverishment of many families and to the reproach of the *English* laws and government, by colour of several patents or grants under the great seal of *England* for the said lotteries or some of them; which said grants or patents are against the common good trade welfare and peace of his Majesty's kingdoms:' For remedy whereof be it enacted adjudged and declared, and it is hereby enacted adjudged and declared by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That all such lotteries and all other lotteries are common and public nuisances, and that all grants patents and licences for such lotteries or any other lotteries are void and against law.

Lotteries declared public Nuisances, and all Grants thereof void.

II. And be it further enacted by the authority aforesaid, That from and after the nine-and-twentieth day of *December* which shall be in the year of our Lord God one thousand six hundred ninety-nine, no person or persons whatsoever shall publickly or privately exercise keep open shew or expose to be played at drawn at or thrown at or shall draw play or throw at any such lottery or any other lottery, either by dice lots cards balls or any other numbers or figures or any other way whatsoever; and that every person or persons that shall after the said nine-and-twentieth day of *December* exercise expose open or shew to be played thrown or drawn at any such lottery play or device or other lottery shall forfeit for every such offence the sum of five hundred pounds, to be recovered by information bill plaint or action at law in any of his Majesty's courts at *Westminster*, wherein no essoign wager of law nor any more than one imparlance shall be allowed; one third part thereof to the use of his Majesty his heirs and successors, one other third part thereof to the use of the poor of the parish where such offence shall be committed, and the other third part thereof together with double costs to the party that shall inform and sue for the same; and the said parties so offending shall likewise be prosecuted as common rogues according to the statutes in that case made and provided.

From 29 Dec. 1699, no Person to keep open such Lottery, &c.

Penalty on Offender.

III. And be it further enacted, That every person or persons that after the said nine-and-twentieth day of *December* shall play throw or draw at any such lottery play or device or other lotteries shall forfeit for every such offence the sum of twenty pounds, to be recovered by information bill plaint or action at law in any of his Majesty's courts at *Westminster*, wherein no essoign wager of law nor any more than one imparlance shall be allowed, one third part thereof to the use of his Majesty his heirs and successors, one other third part thereof to the use of the poor of the parish where such offence shall be committed, and the other third part thereof

Penalty on playing at such Lotteries. 12 Geo. II. c. 28.

No. III. 10 & 11 Will. III. c. 17.

together with double costs to the party that shall inform and sue for the same.

IV. Provided nevertheless, That nothing in this Act contained shall extend or be construed to extend to effect or to enforce the suppressing of a lottery commonly called *The Royal Oak Lottery*, for the remainder only of the term for which it now stands granted by letters patent under the great seal of *England*; any thing herein-before contained to the contrary notwithstanding.

Royal Oak Lottery to continue for the Term granted by Patent only.

This Act not to affect the Lottery for Greenwich Hospital.

V. Provided also, That nothing in this Act contained shall extend to affect restrain or prejudice the undertaking now in being, called *The charitable Adventure for the Benefit of* Greenwich *Hospital*, by the present undertakers thereof, with the approbation of the governors and commissioners appointed for the management of the said hospital for any time before the four-and-twentieth day of *June* one thousand seven hundred.

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9. [No. IV.] 9 Anne, c. 6.—An Act for reviving, continuing, and appropriating certain Duties upon several Commodities to be exported; and certain Duties upon Coals to be water-borne and carried Coastwise; and for granting further Duties upon Candles, for thirty-two Years; to raise Fifteen Hundred Thousand Pounds, by Way of a Lottery, for the Service of the Year One Thousand Seven Hundred and Eleven; and for suppressing such unlawful Lotteries, and such Insurance Offices, as are therein mentioned.

9 Anne, c. 6. Act 10 Will. 3. c. 17. concerning Lotteries, to be put in Execution.

LVI. 'AND whereas, notwithstanding an Act made in the tenth year of the reign of the late King *William*, intituled *An Act for suppressing of Lotteries*, and the prohibitions and penalties therein, several persons of late have presumed contrary to the intent of the said Act to set up lotteries in imitation of the lottery directed to be drawn by virtue of an Act of the last session of Parliament, and other lotteries, which are prejudicial to the publick and tend greatly to defraud her Majesty's subjects;' Be it further enacted by the authority aforesaid, That the said Act of the tenth year of the late King *William* shall be put in execution: And for the more effectual suppressing and preventing such unlawful lotteries the justices of the peace and all mayors bailiffs head officers constables and other her Majesty's civil officers within their respective jurisdictions are hereby empowered and required to use their utmost endeavours to prevent the drawing of any such unlawful lottery heretofore or hereafter to be set up by all lawful ways and means; and that every person who after the eighth day of *March* one thousand seven hundred and ten shall set up or shall by writing or printing publish the setting up any such unlawful lottery with intent to have such lottery drawn shall forfeit for every such offence one hundred pounds, to be recovered by information bill plaint or action at law in any of her Majesty's courts at *Westminster*, wherein no essoign wager of law nor any more than one imparlance shall be allowed; one third part thereof to the use of her Majesty her heirs and successors, one other third part thereof to the use of the poor of the parish where such offence shall be committed, and the other third part thereof together with full costs to the party who shall inform and sue for the same.

'Amended and enforced by 22 Geo. 2. c. 48.'

Persons setting up such Lotteries forfeit 100*l.*

Persons setting up Insurances on Marriages, Births, &c. forfeit 500*l.*

LVII. 'And whereas several ill-disposed persons with design to defraud her Majesty's subjects have of late presumed to erect and set up offices or places for making insurances on marriages births christnings or service, which practices are also prejudicial to the publick and tend to defraud her Majesty's subjects;' Be it further enacted by the authority aforesaid, That every person or persons who after the eighth day of

March one thousand seven hundred and ten shall erect or set up any office or place for making assurances on marriages births christnings and service or any of them shall forfeit for every such offence the sum of five hundred pounds, to be recovered and distributed in such manner as the penalty of two hundred pounds last mentioned is to be recovered and distributed; and every person or persons who after the said eighth day of *March* in any office or place before, the said eighth day of *March* one thousand seven hundred and ten erected or set up for making insurances on marriages births christnings and service or on any of them shall make or suffer to be made therein any new insurances or contracts for new insurances on marriages births christnings and service or any of them shall forfeit for every such offence the sum of one hundred pounds to be recovered and distributed in like manner.

No. IV. 9 Anne, c. 6.

Contracting for new Insurances in Offices already set up, forfeit 100*l.*

[No. V.] 9 Anne, c. 14.—An Act for the better preventing of excessive and deceitful Gaming.

[Inserted ante, Part III.]

[No. VI.] 10 Ann, c. 26.—An Act for laying additional Duties on Hides and Skins, Vellum and Parchment, and new Duties on Starch, Coffee, Tea, Drugs, Gilt and Silver Wire, and Policies of Insurance to secure a yearly Fund for Satisfaction of Orders to the Contributors of a further Sum of One Million Eight Hundred Thousand Pounds towards her Majesty's Supply; and for the better securing the Duties on Candles; and for obviating Doubts concerning certain Payments in *Scotland;* and for suppressing unlawful Lotteries, and other Devices of the same Kind; and concerning Cake Sope; and for Relief of *Mary Ravenall,* in Relation to an Annuity of Eighteen Pounds *per Annum;* and concerning Prize Cocoa Nuts brought from *America;* and certain Tickets which were intended to be subscribed into the Stock of the *South Sea* Company; and for appropriating the Monies granted in this Session of Parliament.

P.

CIX. 'AND whereas notwithstanding the provision made for suppressing of unlawful lotteries, by an Act made in the tenth year of the 'reign of the late King *William,* intituled "An Act for Suppression of 'Lotteries;" and the further provision made for suppressing the same, 'and for the preventing the erecting or setting up any office or place for 'making insurances on marriages births christnings or service by an Act 'made in the last session of Parliament, intituled "An Act for reviving 'continuing and appropriating certain duties upon several commodities to 'be exported, and certain duties upon coals to be water-borne and carried 'coastwise; and for granting further duties upon candles for thirty-two 'years, to raise fifteen hundred thousand pounds by way of a lottery, 'for the service of the year one thousand seven hundred and eleven; and 'for suppressing such unlawful lotteries and such insurance offices as are 'therein mentioned;" many ill disposed persons with design to evade the 'said laws have of late presumed to erect and set up offices or places for 'making insurances on marriages births christnings or service and also 'other offices or places under the denominations of sales of gloves of 'fans of cards of numbers and of the Queen's picture for the improvement 'of small sums of money; and advertisements thereof are daily published in the common printed newspapers and otherwise; which practices are prejudicial to the public and to the trade of this kingdom and

10 Anne, c. 26. 10 & 11 Will. 3. c. 17. 9 Annæ, c. 6.

Clause for suppressing unlawful Lotteries, and other Devices of the same Kind.

No. VI.
10 Ann, c. 26.

'tend to defraud her Majesty's subjects:' Be it further enacted by the authority aforesaid, That the said Act of the tenth year of the late King *William*, and also the said Act of the said last session of Parliament shall be duly put in execution for the effectual preventing and suppressing all such unlawful lotteries and offices; and further, That every person or persons who after the twenty-fourth day of *June* in the year of our Lord one thousand seven hundred and twelve, shall erect set up or keep any office or place for making insurances on marriages births christnings or service or any of them or any other office or place under the denominations of sales of gloves of fans of cards of numbers of the Queen's picture, for the improvement of small sums of money or the like offices or places, under the pretence of improving small sums of money, shall forfeit for every such offence the sum of five hundred pounds to be recovered with costs of suit by action of debt bill plaint or information in any of her Majesty's courts aforesaid wherein no essoign protection wager of law nor any more than one imparlance shall be allowed; one third part thereof to the use of her Majesty her heirs and successors, one other third part thereof to the use of the poor of the parish of the place where the offence shall be committed, and the other third part thereof together with full costs of suit to the person or persons who shall inform or sue for the same: And every printer or other person who after the said twenty-fourth day of *June* one thousand seven hundred and twelve shall by writing or printing publish the setting up or keeping any such office or place under any the denominations aforesaid or like denominations for the improvement of small sums of money, shall for every such offence forfeit the sum of one hundred pounds to be recovered and distributed in such manner as the penalty last mentioned is to be recovered and distributed; and every person or persons who after the said twenty-fourth day of *June* one thousand seven hundred and twelve, in any office or place before the said twenty-fourth day of *June* one thousand seven hundred and twelve, erected or set up for making insurances on marriages births christnings or service or under any other the denominations aforesaid, or any like denominations for improvement of small sums, shall make or suffer to be made therein any new insurances or contracts for new insurances on marriages births christnings or service or receive any payments into any the offices or places aforesaid for the improvement of small sums of money, shall forfeit for every such offence the sum of one hundred pounds. to be recovered and distributed in like manner.

P. [No. VII.] 8 George I. c. 2.—An Act for continuing the Duties on Malt, Mum, Cyder and Perry, to raise Money by way of a Lottery, for the Service of the Year One Thousand Seven Hundred and Twenty-two; and for transferring the Deficiencies of a late Malt Act to the Land Tax for the said Year; and for giving Time for inserting the Money given with Apprentices in their Indentures; and touching lost Bills, Tickets, or Orders; and for exchanging the Tickets in the Exchequer for Certificates; and for suppressing Lotteries denominated Sales, and other private Lotteries; and for enlarging the Time for the Accountant General of the Bank of *England* to return Duplicates of Annuities into the Exchequer.

8 George I. c. 2.
Clause for the more effectual suppressing unlawful Lotteries, denominated Sales, &c. Amended and enforced 12 Geo. 2. c. 28.

XXXVI. 'AND whereas notwithstanding the provision already made by several Acts of Parliament for suppressing and preventing of unlawful lotteries and offices and places under the denomination of sales, and taking or making buying or selling subscriptions

'for the sale of chances or part of chances to arise on tickets made out 'in pursuance of any Act of Parliament for a publick lottery, many ill-'disposed persons with a design to evade such laws have of late presumed 'and do daily presume to erect and set up offices or places under the 'denomination of sales of houses lands plate jewels ships goods and 'other things; and also have presumed to make print and publish or 'caused to be made printed or published proposals or schemes for ad-'vancing small sums of money by several persons amounting in the 'whole to large sums, to be divided among them by the chances of the 'prizes in some public lottery or lotteries established or allowed by Act 'of Parliament, and to deliver out tickets to the persons advancing such 'sums to entitle them to a share of the money so advanced according 'to such proposals; and advertisements thereof are daily published in the 'common printed newspapers and otherwise; which practices are highly 'prejudicial to the public and to the trade of this kingdom and tend to 'defraud his Majesty's subjects:' Be it further enacted by the authority aforesaid, That all and every person or persons who after the twenty-first day of *December* in the year of our Lord one thousand seven hundred and twenty-one shall erect set up continue or keep or shall cause or procure to be erected set up continued or kept any office or place under the denomination of sales of houses lands advowsons presentations to livings plate jewels ships goods or other things for the improvement of small sums of money; or shall sell or expose to sale any houses lands advowsons presentations to livings plate jewels ships goods or other things by way of lottery or by lots tickets numbers or figures; or shall make print advertise or publish or cause to be made printed advertised or published proposals or schemes for advancing small sums of money by several persons amounting in the whole to large sums, to be divided among them by the chances of the prizes in some public lottery or lotteries established or allowed by Act of Parliament; or shall deliver out or cause or procure to be delivered out tickets to the persons advancing such sums to entitle them to a share of the money so advanced according to such proposals or schemes; or shall make print or publish or cause to be made printed or published any proposal or scheme of the like kind or nature under any denomination name or title whatsoever; and shall be thereof convicted upon the oath or oaths of one or more credible witness or witnesses by two or more justices of the peace of the county division or liberty where such offence shall be committed or the offender shall be found (which oath such justices of the peace are hereby empowered and required to administer) the person so convicted shall for every such offence, over and above any former penalties inflicted by any former Act or Acts of Parliament made against any private or unlawful lotteries, forfeit the sum of five hundred pounds, one third part thereof to his Majesty his heirs and successors, one other third part thereof to the informer, and the remaining third part thereof to the poor of the parish where such offence shall be committed; the same to be levied by distress and sale of the offender's goods by warrant under the hands and seals of such justices before whom such offender shall be convicted as aforesaid; and shall also for every such offence by such justices be committed to the county gaol there to remain without bail or main-prize for the space of one whole year, and from thence till the said sum of five hundred pounds so forfeited as aforesaid shall be fully paid and satisfied: Provided nevertheless that any person who shall think himself or herself aggrieved by the judgment or determination of two or more such justices in any the cases aforesaid, shall have liberty to appeal to the next quarter sessions to be held for the county city or place where such judgment or determination shall be made or given: and that the judgment to be given by the justices at the said next quarter sessions shall be final.

Persons who, after 21 Dec. 1721, shall erect Offices for Sale, &c. by way of Lottery, &c. shall forfeit 500*l.* one third to the Crown, another to the Informer, and the other to the Poor, where, &c.

Persons aggrieved may appeal to the Quarter Sessions.

XXXVII. And be it further enacted by the authority aforesaid, That all and every person or persons who after the time aforesaid shall be adventurer or adventurers in or shall pay any money or other consideration

Persons contributing to Sales, &c. to forfeit double the Sum contributed, one Moiety to the Crown, the other to the Informer.

No. VII.
8 Geo. I. c. 2.

or any ways contribute unto or upon the account of any such sales lotteries proposals or schemes aforesaid shall forfeit for every such offence double the sum paid or contributed, to be recovered with costs of suit by action of debt bill plaint or information in any of his Majesty's courts of record at *Westminster*, wherein no essoign protection wager of law nor any more than one imparlance shall be allowed; one moiety thereof to his Majesty his heirs and successors, the other moiety thereof to the person or persons who shall inform or sue for the same.

P. [No. VIII.] 9 George I. c. 19.—An Act to continue the Duties for Encouragement of the Coinage of Monies; and for Relief of *William* late Lord *Widdrington*; and to prevent foreign Lotteries being carried on in this Kingdom; and for ascertaining the Duties on bound Books imported; and for issuing Certificates and Debentures for Arrears due to five Regiments, to be satisfied by Annuities therein mentioned; and for discharging the Duties of Rock-Salt lost on the Rivers *Weaver* and *Mercy*; and for limiting the Times of Continuance of Commissioners for forfeited Estates in *England* and *Scotland* respectively; and for appropriating the Supplies granted to his Majesty in this Sessions of Parliament; and to rectify Misnomers and Omissions of Commissioners for the Land-Tax in the Year One Thousand Seven Hundred and Twenty-three.

9 George I. c. 19.

Clause to prevent foreign Lotteries being carried on in this Kingdom.

IV. 'AND whereas in order to elude the many good laws made for suppressing unlawful lotteries several evil-disposed persons have 'of late presumed to erect and carry on several lotteries upon pretence 'and colour of some grant or authority given by foreign princes or states;' For the better preventing of which illegal practices for the future, Be it declared and enacted by the authority aforesaid, That if any person or persons shall from and after the first day of *July* one thousand seven hundred and twenty-three, by virtue or colour of any grant or authority from any foreign prince state or government whatsoever, erect set up continue or keep or shall cause or procure to be erected set up continued or kept any lottery or undertaking in the nature of a lottery under any denomination whatsoever, or shall make print or publish or cause to be made printed or published any proposal or scheme for any such lottery or undertaking, or shall within this kingdom sell or dispose of any ticket or tickets in any foreign lottery and shall be convicted of any of the said offences upon the oath or oaths of one or more credible witness or witnesses by two or more justices of the peace of the county division or liberty where such offence shall be committed or the offender shall be found (which oath such justices of the peace are hereby empowered and required to administer) the person so convicted shall for every such offence (over and above any former penalties inflicted by any former Act or Acts of Parliament made against unlawful lotteries) forfeit the sum of two hundred pounds; one third part thereof to his Majesty his heirs and successors, one other third part thereof to the informer, and the remaining third part thereof to the poor of the parish where such offence shall be committed; the same to be levied by distress and sale of the offender's goods by warrant under the hands and seals of such justices before whom such offender shall be committed as aforesaid, and shall also for every such offence by such justices be committed to the county gaol, there to remain without bail or mainprize for the space of one whole year and from thence till the said sum of two hundred pounds so forfeited as aforesaid shall be fully paid and satisfied.

Penalty.

V. Provided nevertheless, That any person who shall think him or herself aggrieved by the judgment or determination of such justices in any the cases aforesaid, shall have liberty to appeal to the next quarter sessions to be held for the county city or place where such judgment or determination shall be made or given, and that the judgment to be given by the justices of the next quarter sessions shall be final.

No. VIII. 9 Geo. I. c. 19.

Appeal to Quarter Sessions.

[No. IX.] 2 George II. c. 28.—An Act to revive the Laws therein mentioned, relating to the Importation of Foreign Brandy, and other Waters and Spirits; for Importation of Cochineal; to continue several Acts for preventing Frauds in the Customs: for Encouragement of the Silk Manufactures of this Kingdom; for making Copper Ore of the *British* Plantations an enumerated Commodity; for making perpetual an Act therein mentioned for suppressing of Piracy; for enabling Persons prosecuted upon the *Capias*, in Relation to the running of Goods, to defend in *Forma Pauperis*; for more effectual debarring of unlawful Games; for licensing Retailers of Brandy, and other distilled Liquors, and for better Regulation of Licences for common Inns and Alehouses. ℙ.

IX. 'AND whereas a good and profitable statute was made in the three-and-thirtieth year of the reign of King *Henry* the Eighth (among other things) for the debarring of unlawful games: And whereas by the said statute no power is given unto the justices of the peace to demand and take from persons found playing contrary to law any other security than their own recognisances that they or any of them shall not from thenceforth use such unlawful games, unless such persons are so found playing contrary to law upon the view of one or more justice or justices of the peace:' For remedy thereof, Be it further enacted by the authority aforesaid, That where it shall be proved upon the oath of two or more credible witnesses before any justice or justices of the peace as well as where such justice or justices shall find upon his or their own view that any person or persons have or hath used or exercised any unlawful game contrary to the said statute, the said justice or justices shall have full power and authority to commit all and every such offender or offenders to prison without bail or mainprize, unless and until such offender and offenders shall enter into one or more recognisance or recognisances, with sureties or without, at the discretion of the said justice or justices of the peace, that he or they respectively shall not from thenceforth play at or use such unlawful game.

2 George II. c. 28.

Act 33 Hen. 8. c. 9. against unlawful Games made more effectual.

[No. X.] 6 George II. c. 35.—An Act for appointing Commissioners to examine, state, and report who of the Sufferers in the *Charitable Corporation* are Objects of Compassion, according to the Descriptions therein mentioned, and for giving Relief to such Sufferers; and for enforcing the Laws made against Foreign Lotteries; and for empowering the said Commissioners to hear and determine the Claims of such Creditors and Proprietors of the said Corporation, as have not made their Claims within the Time limited by an Act made in the last Session of Parliament, " for taking, stating and deter- ℙ.

No. X.
6 Geo. II.
c. 35.

mining all the Claims and Demands of the Creditors of the said Corporation, and of all Persons claiming any Share or Interest in the said Stock or Fund of the said Corporation."

6 George II. c. 35.
9 Geo. 1. c. 19.

XXIX. 'AND whereas in an Act which passed in the ninth year of his 'late Majesty's reign, intituled "An Act to continue the 'duties for encouragement of the Coinage of Monies and for relief of '*William* late Lord *Widdrington*, and to prevent foreign Lotteries being 'carried on in this kingdom, and for ascertaining the duty on bound 'Books imported, and for issuing certificates and debentures for Arrears 'due to five regiments to be satisfied by annuities therein mentioned, 'and for discharging the duties on Rock-Salt lost on the rivers *Wear* 'and *Mercy*, and for limiting the times of continuance of Commis-'sioners for forfeited Estates in *England* and *Scotland* respectively, and 'for appropriating the supplies granted to his Majesty in this session of 'Parliament, and to rectify misnomers and omissions of Commissioners 'for the Land Tax in the year one thousand seven hundred and twenty-'three," provision is made against selling or disposing of any tickets in 'any foreign lottery under the penalty of forfeiting two hundred pounds 'and suffering one year's imprisonment for every such offence; yet in 'evasion of the said law and to the great prejudice and damage of many 'of his Majesty's good subjects, several evil minded persons have under-'taken to keep offices for the issuing of tickets or receipts for numbers in 'several foreign lotteries or classes of such lotteries or have made dupli-'cates of such lotteries contrary to the true intent and meaning of the 'said Act:' For remedy whereof, Be it further enacted by the authority aforesaid, That from and after the twenty-fourth day of *June* one thousand seven hundred and thirty-three, if any person or persons shall sell procure or deliver any ticket receipt chance or number in or belonging to any foreign lottery or pretended foreign lottery or in or belonging to any class part or division of such lottery or pretended lottery or in or belonging to any undertaking whatsoever in the nature of a lottery, or shall sell procure or deliver any ticket receipt chance or number in or belonging to any duplicate or pretended duplicate of any foreign lottery or pretended foreign lottery, or shall receive or cause to be received any money whatsoever for any such ticket receipt chance or number or for or in consideration of any money to be repaid in case any ticket or tickets number or numbers in any foreign lottery or pretended foreign lottery or any class part or division thereof shall prove fortunate and shall be convicted of any of the said offences upon action of debt bill plaint or information in any of his Majesty's courts of record at *Westminster* (in which no essoign privilege protection or wager of law or more than one imparlance shall be allowed) or upon the oath or oaths or affirmation or affirmations of one or more credible witness or witnesses before two or more justices of the peace of the county division or liberty where such offence shall be committed or the offender shall be found (which oath or affirmation such justices of the peace are hereby empowered and required to administer or give) the person so convicted shall for every such offence forfeit the sum of two hundred pounds, one third part thereof to the use of his Majesty his heirs and successors, one third part thereof to him her or them who shall sue for the same or make information of the offence, and the remaining third part thereof to the poor of the parish where such offence shall be committed; the same (in case of conviction before two justices) to be levied by distress and sale of the offender's goods by warrant under the hands and seals of such justices before whom such offender shall be convicted; and shall also for every such offence by the court or by such justices as the case shall happen be committed to the county gaol, there to remain without bail or mainprize for the space of one whole year, and from thence till the said sum of two hundred pounds so forfeited as aforesaid shall be fully paid and satisfied.

200*l.* Penalty on Persons selling or procuring Chances in foreign Lotteries after 24th June 1733.
See farther, 12 *Geo.* 2. *c.* 28. 13 *Geo.* 2. *c.* 19. 29 *Geo.* 2. *c.* 7.

No. X.
6 Geo. II.
c. 35.

XXX. Provided nevertheless, That any person who shall think him or herself aggrieved by the judgment or determination of such justices in any of the cases aforesaid, shall have liberty to appeal to the next quarter sessions to be held for the county city or place where such judgment or determination shall be made or given, and that the judgment to be given by the justices of the next quarter-sessions shall be final.

Appeal to the Quarter Sessions, whose Determination shall be final.

Relief for Claims not determined in the Time limited by the former Act.

XXXI. 'And whereas by reason of the absence of several persons 'being creditors and others of the said corporation and of other impedi-'ments and disabilities their respective claims could not be received 'heard adjusted and determined within the time limited and prescribed 'by the Act herein first recited;' Be it therefore enacted by the authority aforesaid, That the said *Robert Holford John Bennet James Lightboun William Kynaston* and *Francis Elde* or any three or more of them shall have full power and authority to state and ascertain the accounts and to hear and determine the claims and demands of all and every such person and persons being creditors of the said corporation, or intitled to any share or shares in the stock or fund of the said corporation or any ways interested in any of the effects of or belonging to the same, as have not made and entered their respective claims in the manner and within the time limited directed and prescribed by the said Act; provided the said claims be made on or before the twenty-fifth day of *December* in the year of our Lord one thousand seven hundred and thirty-three; any thing contained in the said Act to the contrary notwithstanding.

[No. XI.] 12 George II. c. 28.—An Act for the more effectual preventing of excessive and deceitful Gaming. (1)

12 George II. c. 28.
10 & 11 Will. 3. c. 17.

'WHEREAS in and by an Act of Parliament made and passed in the 'tenth and eleventh years of the reign of his late Majesty King 'William the Third, intituled "An Act for suppressing of Lotteries;" 'after reciting that for diver years before making the said Act several 'evil disposed persons had set up many unlawful games called lotteries, 'not only in the city of *London* and *Westminster* and in the suburbs 'thereof but in most of the ancient towns and places in *England* and 'the dominion of *Wales*, and had thereby most unjustly and fraudulently 'gotten to themselves great sums of money from the children and 'servants of several gentlemen traders and merchants and from other 'unwary persons to the utter ruin and impoverishment of many families, 'it is declared and enacted, That all such lotteries and all other lotteries 'are common and publick nuisances: And whereas in order to suppress 'all such lotteries, it is in and by the said statute enacted and declared, 'That from and after the twenty-ninth day of *December* which shall be in 'the year of our Lord one thousand six hundred and ninety-nine no 'person or persons whatsoever shall publickly or privately exercise keep 'open shew or expose to be played at drawn or thrown at or shall draw 'play or throw at any such lottery or other lotteries, either by dice lots 'cards balls or any other number or figures or any other way whatsoever 'under such penalties as in the said Act are mentioned and set forth; 'which said statute is inforced by an Act of Parliament made in the 'ninth year of the reign of her late Majesty Queen *Anne*, intituled "An 'Act for reviving continuing and appropriating certain duties upon several 'commodities to be exported, and certain duties upon coals to be water-'borne and carried coastwise; and for granting further duties upon 'candles for thirty-two years; to raise fifteen hundred thousand pounds 'by way of a lottery for the service of the year one thousand seven hun-'dred and eleven; and for suppressing such unlawful lotteries and such 'insurance-offices as are therein-mentioned:" And whereas in and by

9 Annæ, c. 6. § 56.
10 Ann, c. 26. § 109.

(1.) The Stat. 27 Geo. 3. c. 1. which takes away the summary jurisdiction of Magistrates over Offences concerning the Lottery, only extends to State Lotteries; and does not repeal their power over games of Chance or Lotteries prohibited by this Stat. Rex *v.* Liston, 5 T. R. 338.

No. XI.
12 Geo. II. c. 28.

8 Geo. 1. c. 2. § 36.

9 Geo. 1. c. 19.

'one other Act of Parliament made and passed in the eighth year of the 'reign of his late Majesty King *George* the First, intitulled "An Act 'for continuing the duties on malt mum cyder and perry to raise money 'by way of a lottery for the service of the year one thousand seven hun-'dred and twenty-two; and for transferring the deficiencies of a late malt 'Act to the land tax for the said year; and for giving time for inserting 'the money given with apprentices in their indentures; and touching lost 'bills tickets or orders; and for exchanging the tickets in the Exchequer 'for certificates; and for suppressing lotteries denominated sales and 'other private lotteries; and for enlarging the time for the Accountant 'General of the Bank of *England* to return duplicates of annuities into 'the Exchequer;" it is enacted, That all and every person or persons 'who after the twenty-first day of *December* in the year of our Lord one 'thousand seven hundred and twenty-one shall erect set up continue or 'keep or shall cause or procure to be erected set up continued or kept 'any office or place under the denomination of sales of houses lands 'advowsons presentations to livings plate jewels ships goods or other 'things for the improvement of small sums of money, or shall sell or 'expose to sale any houses lands advowsons presentations to livings plate 'jewels ships goods or other things by way of lottery or by lots tickets 'numbers or figures; or shall make print advertise or publish or cause to 'be made printed advertised or published proposals or schemes for 'advancing small sums of money by several persons amounting in the 'whole to large sums, to be divided among them by the chances of the 'prizes in some public lottery or lotteries established or allowed by Act 'of Parliament; or shall deliver out or cause or procure to be delivered 'out tickets to the persons advancing such sums to entitle them to a 'share of the money so advanced according to such proposals or schemes; 'or shall make print or publish or cause to be made printed or published 'any proposal or scheme of the like kind or nature under any denomina-'tion name or title whatsoever, and shall be thereof convicted upon the 'oath or oaths of one or more credible witness or witnesses, by two or 'more justices of the peace of the county division or liberty where such 'offence shall be committed or the offender shall be found, which oath 'such justices of the peace are hereby empowered and required to admi-'nister; the person so convicted shall for every such offence over and 'above any former penalties inflicted by any former Act or Acts of Par-'liament made against any private or unlawful lotteries forfeit the sum of 'five hundred pounds, one third part thereof to his Majesty his heirs 'and successors, and one other third part thereof to the informer, and 'the remaining third part thereof to the poor of the parish where such 'offence shall be committed; the same to be levied by distress and sale 'of the offender's goods by warrant under the hands and seals of such 'justices before whom such offender shall be convicted as aforesaid; and 'shall also for every such offence by such justices be committed to the 'county gaol, there to remain without bail or mainprize for the space of 'one whole year, and from thence till the sum of five hundred pounds 'so forfeited as aforesaid shall be fully paid and satisfied: Provided 'nevertheless, That any person who shall think himself or herself ag-'grieved by the judgment or determination of two or more such justices 'in any the cases aforesaid, shall have liberty to appeal to the next 'quarter sessions to be held for the county city or place where such 'judgment or determination shall be made or given; and that the judg-'ment to be given by the justices of the said next quarter sessions shall 'be final: And whereas it is found by experience, that the said good and 'wholesome laws have not effectually answered the good ends intents 'and purposes in and by the said Acts designed; but that contrary to the 'true intent and meaning of the said recited Acts several deceitful games 'and subscriptions are daily carried on under the denomination of sales 'of houses lands plate jewels goods and other things; and that several 'printers have printed published or caused to be printed and published 'proposals or schemes for the sale of such houses lands plate jewels 'goods and other things, to be determined by raffles by mathematical

No. XI.
12 Geo. II.
c. 28.

'machines or engines and by other indirect ways and means, tending 'to evade the said good and wholesome laws before mentioned: And 'whereas several persons have for many years past carried on and set up 'certain fraudulent games and lotteries to be determined by the chance 'of cards and dice, under the denomination of the games of the ace of 'hearts pharoah basset and hazard, and thereby defrauded several of his 'Majesty's subjects, ignorant of the great disadvantage adventurers in 'the said games and lotteries so denominated the games of the ace of 'hearts pharoah basset or hazard are under subject and liable to: And 'whereas several doubts have arisen whether the said games of the ace 'of hearts pharaoh basset and hazard are within the descriptions of the 'lotteries prohibited by the said recited Acts of Parliament: And whereas 'great difficulties have arisen upon the methods of conviction of the 'offenders against the said Acts of Parliament;' For remedy whereof and for explaining and making more effectual the said Acts of Parliament, may it please your most excellent Majesty that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That if any person or persons shall after the twenty-fourth day of *June* one thousand seven hundred and thirty-nine erect set up continue or keep any office or place under the denomination of a sale or sales of houses land advowsons presentations to livings plate jewels ships goods or other things by way of lottery, or by lots tickets numbers or figures cards or dice; or shall make print advertise or publish or cause to be made printed advertised or published proposals or schemes for advancing small sums of money by several persons amounting in the whole to large sums, to be divided among them by chances of the prizes in some publick lottery or lotteries established or allowed by Act of Parliament, or shall deliver out or cause or procure to be delivered out tickets to the persons advancing such sums to intitle them to a share of the money so advanced according to such proposals or schemes; or shall expose to sale any houses lands advowsons presentations to livings plate jewels ships or other goods by any game method or device whatsoever depending upon or to be determined by any lot or drawing, whether it be out of a box or wheel or by cards or dice or by any machine engine or device of chance of any kind whatsoever; such person or persons and every or either of them shall upon being convicted thereof before any one justice of the peace for any county riding or division, or before the mayor or other justice or justices of the peace for any city or town corporate upon the oath or oaths of one or more credible witness or witnesses (which said oaths the said justices of the peace and mayor are hereby authorised empowered and required to administer) or upon the view of such justice or justices or the mayor justice or justices for any city or town corporate or on the confession of the party or parties accused; shall forfeit and lose the sum of two hundred pounds to be levied by distress and sale of the offender's goods, by warrant under the hands and seals of one or more justice or justices of the peace of such county riding division city or town where the offence shall be committed; which said forfeitures when recovered after deducting the reasonable charges of such prosecution shall go and be applied one third thereof to the informer and the remaining two thirds to the use of the poor of the parish where such offence shall be committed, excepting the said two thirds of such forfeitures which shall be incurred by and recovered upon any person or persons within the city of *Bath*, which said two thirds shall go and be applied to and for the use and benefit of the poor residing within the hospital or infirmary lately erected for the benefit of poor persons resorting to the said city for the benefit of the mineral waters, after deducting the charges of conviction as aforesaid. (1.)

200*l.* Penalty on any Offence against this Act.

The same how to be levied and applied.

(1.) The Court refused to quash a Conviction on this Statute, directing the Penalty to be distributed according to that Act, though it appeared in the Certiorari that the Conviction was made at one of the Seven Public Offices established by Stat. 32 Geo. 3. c. 53. which directs that all Penalties levied by the Justices under that Act shall be paid to the receivers appointed by that Act. 5 T. R. 338.

No. XI.
12 Geo. II. c. 28.

Games within the Intent of the Act.

II. And it is hereby enacted and declared, That the said games of the ace of hearts pharaoh basset and hazard are and are hereby declared to be games or lotteries by cards or dice within the intent and meaning of the said in part recited Acts; and that all and every person or persons who shall set up maintain or keep the said games of the ace of hearts pharaoh basset and hazard shall be subject and liable to all and every the penalties and forfeitures in and by this Act inflicted upon any person or persons who shall erect set up continue or keep any of the said games or lotteries in this present Act mentioned; and shall be prosecuted and convicted, and the penalties and forfeitures shall be sued for and recovered in like manner as the said penalties and forfeitures are by this Act directed to be sued for and recovered.

50*l.* Penalty on the Adventurers.

III. And be it further enacted by the authority aforesaid, That all and every person and persons who shall be adventurers in any of the said games lottery or lotteries sale or sales; or shall play set at stake or punt at either of the said games of the ace of hearts pharaoh basset and hazard, and shall be thereof convicted in such manner and form as in and by this Act is prescribed; every such person or persons shall forfeit and lose the sum of fifty pounds to be sued for and recovered as aforesaid.

Sales by Lotteries void;

IV. And it is hereby further enacted by the authority aforesaid, That all and every such sale or sales of houses lands advowsons presentations to livings plate jewels ships goods or other things, by any game lottery or lotteries machine engine or other device whatsoever depending upon or to be determined by chance or lot, shall and are hereby declared to be

and Lands, &c. forfeited.

void to all intents and purposes whatsoever: And all such houses lands advowsons presentations to livings plate jewels ships goods or other things set up and exposed to sale in manner and form aforesaid shall be forfeited to such person or persons who shall sue for the same by action bill plaint or information in any of his Majesty's courts of record, or at the assizes for any county where the offence shall be committed; in which action bill plaint or information no essoign protection wager of law or more than one imparlance shall be allowed.

Appeal.

V. Provided always and it is hereby declared and enacted, That if any person or persons shall think him her or themselves aggrieved by the judgment or determination of any justice or justices of the peace or mayor as aforesaid upon any conviction of or for any of the offences in this Act; such person or persons may appeal from the said judgment of the said justice or justices or mayor to the next general quarter sessions of the peace for the said county riding division city or place where such person or persons was or were convicted; but the person and persons so appealing shall and he she and they are hereby directed to give reasonable notice to the prosecutor or prosecutors of such person or persons as shall so appeal; of such his her or their intention of bringing and prosecuting such appeal, and shall enter into a recognisance before some justices of the peace for the county riding division city or place wherein the conviction or judgment was made or given with two sufficient sureties, on condition to try such appeal at the next quarter sessions which shall be held in and for the county riding division city or place wherein such conviction or judgment was made or given next and immediately after the bringing such appeal; and every such appeal and appeals shall by the Court at the said next general quarter sessions to which such appeal and appeals is or are made be then examined and the matter then finally heard and determined and not afterwards; and in case such judgment determination or conviction as aforesaid shall be then and there affirmed, the party appealing shall pay unto the prosecutor or prosecutors his her or their treble costs; and such prosecutor and prosecutors shall have such remedy for the same as any defendant or defendants hath or have for costs of suit in any other cases by law.

Convictions.

VI. Provided always and be it further enacted by the authority aforesaid, That no such conviction made or judgment given as aforesaid by this Act shall be set aside by the said court of quarter sessions for want of form in case the facts alleged in the said conviction shall be proved

to the satisfaction of the said Court; nor shall such conviction or judgment be removed or removable by *certiorari* or any other writ or process whatsoever into any of his Majesty's courts of record at *Westminster*, until such order or other proceedings shall have been first removed to and judgment and determination given and made thereupon by such court of quarter sessions as aforesaid.

Record removeable, upon 100*l.* Security.

VII. Provided also and be it further enacted by the authority aforesaid, That no writ of *certiorari* or other process shall issue or be issuable to remove the record of any such conviction from the said court of quarter sessions, or to remove any order or other proceedings taken or made by the said court of quarter sessions upon touching or concerning such conviction into any of his Majesty's courts of record at *Westminster*, until the party or parties against whom such conviction shall be made before the allowance of such writ of *certiorari* or other process shall find two sufficient sureties to become bound to the prosecutor in the sum of one hundred pounds, with condition to prosecute the same with effect within six calendar months and to pay unto the prosecutor or prosecutors his her or their treble costs and charges, in case such order or conviction shall be affirmed.

Offenders not able to pay the Penalties to be imprisoned.

VIII. And it is hereby further enacted and declared, That if any person or persons who shall be convicted of erecting setting up maintaining or keeping any of the said lotteries or the said games of the ace of hearts pharaoh basset or hazard, or therein or in either of them shall adventure and shall not have sufficient goods and chattels whereon to levy the penalties inflicted by this Act, or shall not immediately pay the said penalties or give security for the same; it shall and may be lawful for the said justice or justices before whom such person shall be convicted as aforesaid, to commit such person or persons to the common gaol of the county riding division city or place where such offence shall be committed, there to continue and remain for any time not exceeding six months.

Penalty on Neglect of Justices or Mayors.

IX. And be it also enacted, That if any justice of the peace or any other justice herein before described or mayor of any corporation, shall neglect or refuse to do what is required of him and them by this Act; such justices and mayors so neglecting or refusing shall respectively forfeit and pay the sum of ten pounds for each offence; one moiety whereof to be paid to any person or persons who shall sue for the same, and the other moiety thereof to the poor of the parish or place where such offence shall be committed; and shall be recovered with full costs of suit by action bill plaint or information in any of his Majesty's courts of record or at the assize for any county; in which action bill plaint or information no essoign protection or wager of law nor more than one imparlance shall be allowed; such prosecution being commenced within six months next after such refusal of such justices or mayor.

This Act not to hinder any Games in Palaces, where the King resides,

X. Provided always and it is hereby enacted and declared, That nothing in this Act or in any former Acts against gaming contained shall extend to prevent or hinder any person or persons from gaming or playing at any of the games in this or in any of the said former Acts mentioned within any of his Majesty's royal palaces where his Majesty his heirs or successors shall then reside.

nor to affect the Right to any Lands, &c. held by Lot.

XI. Provided always and it is hereby further enacted and declared, That nothing herein contained shall extend or be any ways construed deemed or taken to extend or in any sort to affect or prejudice any estate or interest in out of or to any manors honours royalties lands tenements advowsons presentations rents services and hereditaments whatsoever, which shall and may at any time or times hereafter be according to the laws now in being legally allotted to or held by or by means of any allotment or partition by lots; but that all persons who now are or that shall hereafter become really and truly seised as part-owners joint-tenants and tenants in common of any manors honours royalties lands tenements advowsons presentations rents services and hereditaments, shall and he she and they and his her and their heirs and assigns is and are hereby made and continued capable to accept and take such estates

No. XI.
12 Geo. II. c. 28.

and interest and parts therein, in such and the like manner and to such and the like uses as he she or they might would or could have done by or by virtue or in consequence of any lot scroll chance or allotment whatsoever had this present Act never been made; any thing herein contained to the contrary thereof notwithstanding.

Limitation of Actions.

XII. And be it further enacted by the authority aforesaid, That if any suit or action shall be commenced or prosecuted against any person or persons for any thing done in pursuance of this Act, every such suit or action shall be commenced within three calendar months next after the fact was committed and not afterwards; and shall be laid or brought in the county city or place where the cause of action shall arise and not elsewhere; and the defendant and defendants therein shall and may plead the general issue and give this Act and the special matter in evidence at the trial to be had thereupon, and that the same was done in pursuance of or by the authority of this Act; and if the plaintiff or plaintiffs shall become nonsuited or discontinue his her or their action or actions suit or suits, or if upon demurrer judgment shall be given against the plaintiff or plaintiffs; the defendant or defendants shall and may recover treble costs and have like remedy for the same, as any defendant or defendants hath or have for costs in any other cases by law.

General Issue.

Treble Costs.

[No. XII.] 13 George II. c. 19.—An Act to restrain and prevent the excessive Increase of Horse Races, and for amending an Act made in the last Session of Parliament, intituled "An Act for the more effectual preventing of excessive and deceitful Gaming."

13 George II. c. 19.

'WHEREAS the great number of horse races for small plates prizes or sums of money have contributed very much to the encouragement of idleness, to the impoverishment of many of the meaner sort of the subjects of this Kingdom, and the breed of strong and useful horses hath been much prejudiced thereby:' For remedy thereof may it please your most excellent Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the twenty-fourth day of *June* one thousand seven hundred and forty no person or persons whatsoever shall enter start or run any horse mare or gelding for any plate prize sum of money or other thing, unless such horse mare or gelding shall be truly and *bona fide* the property of and belonging to such person so entering starting or running the same horse mare or gelding; nor shall any one person enter and start more than one horse mare or gelding for one and the same plate prize sum of money or other thing; and in case any person or persons shall after the said twenty-fourth day of *June* one thousand seven hundred and forty enter start or run any horse mare or gelding, not being the property truly and *bona fide* of such person so entering starting or running the same for any plate prize sum of money or other thing, the said horse mare or gelding or the value thereof shall be forfeited, to be sued for and recovered and disposed of in manner as is hereinafter mentioned; and in case any person or persons shall enter and start more than one horse mare or gelding for one and the same plate prize or sum of money or other thing, every such horse mare or gelding (other than the first entered horse mare or gelding) or the value thereof shall be forfeited, to be sued for and recovered and disposed of in manner as hereinafter is mentioned.

Horses to be entered by the Owners.

and no more than one a Time.

No Plate to be run for under 50*l.* Value,

II. And be it further enacted by the authority aforesaid, That from and after the said twenty-fourth day of *June* one thousand seven hundred and forty no plate prize sum of money or other thing shall be run for by any horse mare or gelding, or advertised published or proclaimed to be run for by any horse mare or gelding, unless such plate prize or sum of money shall be of the full real and intrinsic value of fifty pounds,

No. XII.
13 Geo. II. c. 19.

(1) or upwards; and in case any person or persons shall from and after the twenty-fourth day of *June* one thousand seven hundred and forty enter start or run any horse mare or gelding for any plate prize sum of money or other thing of less value than fifty pounds, or shall make print advertise publish or proclaim any advertisement or notice of any plate prize sum of money or other thing of less value than fifty pounds as aforesaid, to be run for by any horse mare or gelding; every such person or persons so entering starting or running such horse mare or gelding for such plate prize sum of money or other thing of less value than fifty pounds as aforesaid shall forfeit and lose the sum of two hundred pounds, to be sued for recovered and disposed of in such manner as is herein-after prescribed and directed; and every person or persons who shall make print publish advertise or proclaim any advertisement or notice of any plate prize sum of money or other thing of less value than fifty pounds aforesaid to be run for by any horse mare or gelding shall forfeit and lose the sum of one hundred pounds (2.)

on Penalty of 200*l.*

III. And be it further enacted by the authority aforesaid, That from and after the twenty-fourth day of *June* one thousand seven hundred and forty no horse mare or gelding being of the age of five years shall be entered started or run for any plate prize sum of money or other thing whatsoever, unless such horse mare or gelding shall carry ten stone weight, computing fourteen pounds to each stone weight; and that no horse mare or gelding being of the age of six years shall be entered started or run for any plate prize sum of money or other thing whatsoever, unless such horse mare or gelding shall carry eleven stone weight, computing fourteen pounds to each stone weight; and that no horse mare or gelding being of the age of seven years shall be entered started or run for any plate prize sum of money or other thing whatsoever, unless such horse mare or gelding shall carry twelve stone weight, computing fourteen pounds to each stone weight; and in case any person or persons shall enter start or run any horse mare or gelding of either of the ages aforesaid for any plate prize or sum of money or other thing carrying less than the weights herein-before directed to be carried, such horse mare or gelding or the value thereof shall be forfeited, and the person or persons so entering starting or running such horse mare or gelding shall forfeit and lose the sum of two hundred pounds.

Five Years' old Horses to carry Ten Stone.

Six Years old 11 Stone.

7 Years old 12 Stone.

This Clause is repealed by 18 *Geo.* 2. *c.* 34. § 11. See 4 Bur. 2432.

IV. Provided also, That every race that shall be hereafter run for any plate prize or sum of money be begun and ended in the same day.

Races to be begun and ended in one Day.

V. And be it further enacted by the authority aforesaid, That from and after the twenty-fourth day of *June* one thousand seven hundred and forty no person or persons whatsoever shall start or run any match with or between any horse mare or gelding for any sum of money plate prize or other thing whatsoever, unless such match shall be started or run at *Newmarket Heath* in the counties of *Cambridge* and *Suffolk* or *Black Hambleton* in the county of *York*, or the said sum of money plate prize or other thing be of the real and intrinsic value of fifty pounds or upwards: And in case any person or persons shall start or run any such match at any other place than *Newmarket Heath* or *Black Hambleton* aforesaid, or for any plate prize sum of money or other thing of less value than fifty pounds every such person or persons shall forfeit and lose the sum of two hundred pounds.

Matches to be at Newmarket and Black Hambleton only, and for not less than 50*l.*

(1.) A Race between two Persons for 25*l.* a side, one giving the other 5*l.* is a Race for 50*l.* to which the one contributes 30*l.* and the other 20*l.*: Bidmead *v.* Gale. 4 Burr. 2432. No Action can be brought upon a Wager on a Race prohibited by this Clause: Johnson *v.* Bann, 4 T. R. 1.

A wager, that a single horse should go from A. to B, on the high road, sooner than one of two other horses to be placed at any distance their Owner should please, cannot be recovered; this being a transaction prohibited by Stat. 16 Car. 1. c. 7. § 2. and 9 Ann, c. 14. and not legalized by 13 Geo. 2. c. 19, or 18 Geo. 2. c. 34. which latter Statutes relate to bona fide horse-racing only. Whaley *v.* Pajot, 2 B. and P. 51.

(2.) Where, by the terms of a horse-race, the Entrance-money is to be given to the second best horse, and it is doubtful, on the wording of those terms, whether all the money paid at the entering each Horse is to be considered as Entrance-money, the Court of C. P. will put such a construction on the terms as will conclude the whole in the description of Entrance-money to be given to the second best Horse, being most agreeable to Stat. 13 Geo. 2. c. 19. § 2 & 7. Dowson *v.* Scriven, 1 H. B. 218.

No. XII.
13 Geo. II. c. 19.

VI. And be it further enacted by the authority aforesaid, That all penalties and forfeitures incurred by any person or persons for any offence against this Act shall be sued for and recovered by any action bill plaint or information in any of his Majesty's courts of record at *Westminster*, or at the assizes, and shall be disposed of one moiety thereof to the use of such person or persons as shall sue for the same, and the other moiety to the use of the poor of such parish or place where the offence shall be committed: except such one moiety of such penalties and forfeitures as shall be incurred by and recovered of any person or persons within the county of *Somerset*; which said one moiety shall go and be applied to and for the use and benefit of the poor persons admitted into the hospital or infirmary lately erected in the city of *Bath*, for the benefit of poor persons resorting to the said city for the benefit of the mineral waters there.

Entrance-money to be paid to the second best Horse.

VII. And be it further enacted by the authority aforesaid, That from and after the twenty-fourth day of *June* one thousand seven hundred and forty all and every sum or sums of money to be paid for entering of any horse mare or gelding, to start or run for any plate prize sum of money or other thing, shall go and be paid to the second best horse mare or gelding which shall start or run for such plate prize or sum of money as aforesaid.

Gifts left for annual Races not to be altered.

VIII. Provided always, That nothing herein contained shall extend or be construed to extend to prevent the starting or running any horse mare or gelding for any plate prize or other thing or things now issuing out of or paid for or by the rents issues and profits of any lands tenements or hereditaments, or of or by the interest of any sum or sums of money now chargeable with the same or appropriated for that purpose.

12 Geo. 2. c. 28.

IX. 'And whereas a good and wholesome law was made in the twelfth 'year of the reign of his present Majesty King *George* the Second, intituled, "An Act for the more effectual preventing of excessive and deceitful Gaming;" but contrary to the true intent and meaning thereof, 'some fraudulent and deceitful games have been invented, and a certain 'game called *passage* is now daily practised and carried on to the ruin 'and impoverishment of many of his Majesty's subjects;' It is therefore hereby enacted and declared, That the said game of passage and all and every other game and games invented or to be invented with one or more die or dice or with any other instrument engine or device in the nature of dice having one or more figures or numbers thereon (backgammon and the other games now played within the backgammon tables only excepted) are and shall be deemed to be games or lotteries by dice, within the intent and meaning of the said in part recited Act; and all and every person and persons who shall set up maintain or keep any office table or place (save and except as in the said in part recited Act is provided and declared) for the said game of passage or for any other such game or games as aforesaid (backgammon and the other games now played with the backgammon tables only excepted) shall severally forfeit be subject and liable to all and every the penalties and forfeitures in and by the said in part recited Act inflicted upon any person or persons who shall erect set up continue or keep any of the games or lotteries in the said in part recited Act mentioned; and all and every person or persons who shall play set at stake or adventure at the said game of passage or at any other such game as aforesaid (backgammon and the other games now played with the backgammon tables only excepted) save and except as in the said in part recited Act is provided and declared, he and they respectively shall severally forfeit be subject and liable to all and every the penalties and forfeitures in and by the said in part recited Act inflicted upon any person or persons who shall play set at stake or adventure at any of the said games in the said in part recited Act mentioned; and all and every such offenders respectively shall be prosecuted and convicted, and the several penalties and forfeitures shall be sued for and recovered and disposed of in like manner and to such uses as the several penalties and forfeitures in either of such cases are by the said in part recited Act directed to be sued for and recovered and disposed of.

Game of Passage and other Games with Dice prohibited.
See further 29 Geo. 2. c. 7.

X. And be it further enacted by the authority aforesaid, That in any action bill plaint or information to be brought or commenced by virtue of

this Act, no essoign protection wager of law or more than one imparlance shall be allowed; and that over and above the penalties and forfeitures to be recovered by virtue of this Act, the plaintiff or informer shall recover his or her double costs.*

No XII. 13 Geo. II. c. 19.

* Double Costs.

[No. XIII.] 18 George II. c. 34.—An Act to explain, amend, and make more effectual the Laws in being, to prevent excessive and deceitful Gaming; and to restrain and prevent the excessive Increase of Horse Races.

[Inserted ante Part III.]

[No. XIV.] 25 George II. c. 36.—An Act for the better preventing Thefts and Robberies, and for regulating Places of Public Entertainment, and punishing Persons keeping disorderly Houses.

[See Chronological Table.]

[No. XV.] 27 George III. c. 1.—An Act to render more effectual the Laws now in being for suppressing unlawful Lotteries. (1.)

27 George III. c. 1. Preamble.

'WHEREAS the good and wholesome laws from time to time made and provided for the suppression of unlawful lotteries, and against adventuring in lotteries established by Acts of Parliament in *Great Britain* or *Ireland* by unlawful sales of chances of tickets and by insuring for or against the drawing of such tickets have not been found effectual for the purposes intended thereby: And whereas in and by an Act of Parliament made and passed in the eighth year of the reign of his late Majesty King *George* the First, intituled "An Act for continuing the duties on malt mum cyder and perry, to raise money by way of a lottery for the service of the year one thousand seven hundred twenty-two; and for transferring the deficiencies of a late malt Act to the land-tax for the said year; and for giving time for inserting the money given with apprentices in their indentures; and touching lost bills tickets or orders; and for exchanging the tickets in the Exchequer for certificates; and for suppressing lotteries denominated sales and other private lotteries; and for enlarging the time for the Accountant General of the Bank of *England* to return duplicates of annuities into the Exchequer;" it is amongst other things enacted, That all and every person or persons who after the twenty first day of *December* in the year of our Lord one thousand seven hundred and twenty-one shall make print advertise or publish or cause to be made printed advertised or published proposals or schemes for advancing small sums of money by several persons amounting in the whole to large sums, to be divided among them by the chances of the prizes in some publick lottery or lotteries established or allowed by Act of Parliament, or shall deliver out or cause or procure to be delivered out tickets to the persons advancing such sums, to intitle them to a share of the money so advanced according to such proposals or schemes; or shall make print or publish or cause to be made printed or published any proposal or scheme of the like kind or nature under any denomination name or title whatever, and shall be thereof convicted upon the oath or oaths of one or more credible witness or witnesses, by two or more justices of the peace of the county division or liberty where such offence shall be committed

8 Geo. I. c. 2.

(1.) This Stat. only extends to State Lotteries; and does not repeal the power of Magistrates over Games of Chance or Lotteries prohibited by 12 Geo. 2. c. 28. Rex v. Liston, 5 T. R. 338.

No. XV.
27 Geo. III. c. 1.

12 Geo. 2. c. 28. and 22 Geo. 3. c. 47. recited;

'or the offender shall be found, shall for such offence, over and above 'any former penalties inflicted by any former Act or Acts of Par- 'liament made against any private or unlawful lotteries, forfeit the sum 'of five hundred pounds: And whereas in and by two other Acts of Par- 'liament, the one thereof made and passed in the twelfth year of the 'reign of his late Majesty King *George* the Second, intituled, "An Act 'for the more effectual preventing of excessive and deceitful Gaming;" 'and the other thereof made and passed in the twenty-second year of the 'reign of his present Majesty, intituled, "An Act for licensing Lottery- 'office Keepers and regulating the sale of Lottery Tickets;" many good 'and wholesome provisions are enacted which require to be maintained 'and carried more effectually into execution: And whereas great diffi- 'culties have arisen upon the methods of conviction of offenders against 'the said recited Acts before justices of the peace, and many evasions of 'the said recited Acts are daily put in practice;' For remedy whereof, may it please your Majesty that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That all and every the said recited Acts and every article and thing in them contained, touching and concerning lotteries and not by this Act altered or repealed or other provision made in lieu thereof, shall be duly put in execution according to the tenor of the said recited Acts and under the penalties therein contained to be raised levied and disposed of as in and by this Act is directed.

and the Powers thereby given to continue in force, except such as are hereby altered.

After the passing of this Act, Penalties incurred under the recited Acts may be sued for by any Persons whomsoever within Six Months.

II. And be it further enacted by the authority aforesaid, That from and after the day on which this Act shall receive his Majesty's royal assent no pecuniary penalty or penalties which shall be incurred by any person or persons offending against such parts of the said Acts or any of them as touch and concern lotteries shall be recovered or recoverable before any justice or justices of the peace, but shall and may be sued for by any person or persons whomsoever at any time within six calendar months next after such offence shall be committed, and recovered by action of debt bill plaint suit or information in any of his Majesty's courts of record at *Westminster*, in which no essoign protection wager of law or more than one imparlance shall be allowed; and one moiety of the said respective penalties when recovered shall in every such case go and be applied to the use of his Majesty his heirs and successors, and the other moiety with full costs of suit to the person or persons who shall sue or prosecute for the same respectively; and upon every such action bill plaint suit or information a *capias* or other writ shall and may issue; the first process specifying therein the amount of the penalty or penalties sued for, whereof an affidavit shall be first duly made and filed; and the defendant or defendants shall in such case be obliged to give sufficient bail or security, by natural-born subjects persons naturalized or denizens, to the person or persons to whom such *capias* or other writ shall be directed to appear in the court out of which such process shall be issued at the day of the return of such process to answer such suit or prosecution, and shall likewise at the time of such appearance give sufficient bail or security by such persons as aforesaid in the said court to answer and pay all the forfeitures and penalties incurred for such offence or offences, together with the costs of suit, in case he she or they shall be convicted thereof, or to yield his her or their body or bodies to prison: Provided always, That the bail herein-before required to be given shall in no case exceed the sum of five hundred pounds. (2)

Application of Penalties.

In every Action for Penalties, the Defendant to give Bail to answer it.

Bail not to exceed 500*l.*

(2.) A Plaintiff who sues for Penalties under this Section must make an Affidavit previous to the suing out of the Writ, specifying the amount of the Penalties sued for. King *v.* Horne, 4 T. R. 349. And the Affidavit should specify the nature of the Offence, and aver that the Defendant has incurred the forfeiture; but the Offence need not be described circumstantially: nor is the Plaintiff obliged to swear that the Defendant is indebted to him to the amount of the Penalty. Davis *v.* Mazzinghi, 1 T. R. 705.

If the Affidavit state an Act to have passed in the 27 Geo. 3. which was passed in the 22 Geo. 3. under which a Penalty was incurred, it is a fatal objection, even though the title of the Act be properly set forth, 2 T. R. 654.

No. XV.
27 Geo. III. c. 1.

III. 'And whereas in and by an Act made and passed in the seventeenth year of the reign of his late Majesty King *George* the Second, intituled "An Act to amend and make more effectual the Laws relating to Rogues Vagabonds and other idle and disorderly Persons and to Houses of Correction," it is enacted, That all persons playing or betting at any unlawful games or plays shall be deemed rogues and vagabonds within the true intent and meaning of that Act: And whereas all lotteries not established by Act of Parliament in *Great Britain* or *Ireland* are declared to be common and publick nuisances: And whereas all adventuring with lottery tickets in such lotteries as are established by Act of Parliament other than by the actual sale of tickets and of such shares thereof as are permitted by law to be sold is wholly prohibited by the said Act of the twenty-second year of the reign of his present Majesty: And whereas it would tend greatly to suppress such abuses in the lottery now established, and in all future lotteries that may hereafter be established by law, if the person and persons guilty of any of the offences against this Act or such parts of the herein-before mentioned Acts or any of them as touch and concern lotteries might be punishable under the said Act passed in the seventeenth year of the reign of his said late Majesty, except in cases of insurances on tickets by persons actually possessed thereof, under the restrictions herein-after mentioned;' Be it therefore further enacted by the authority aforesaid, That from and after the day on which this Act shall receive his Majesty's royal assent, all and every person and persons who shall publickly or privately open set up continue or keep by himself or herself or by any other person or persons any office or other place for buying selling or otherwise dealing in any tickets or any shares of tickets in any lottery now established or hereafter to be established by any *British* or *Irish* Act of Parliament, or for registering the numbers of such tickets without the authority of a licence duly obtained for that purpose from the commissioners for managing the duties upon stamped vellum parchment and paper for the time being, in the manner in and by the said recited Act of the twenty-second year of the reign of his present Majesty directed; and all and every person and persons (except as herein-after is provided) who shall by himself herself or themselves or by any other person or persons or for his her or their own account or for or on the account or as the servant agent or factor of any other person or persons sell or cause or procure to be sold the chance or chances of any such ticket or tickets or any share or shares thereof for a day or part of a day or any less time than the whole time of drawing in any such lottery then to come; or insure or cause or procure any other person or persons to insure for or against the drawing of any such ticket or tickets, or shall receive any money or goods whatsoever in consideration of any agreement or promise to repay any sum or sums of money or to deliver the same or any plate jewels or other goods whatsoever, if any such ticket or tickets shall prove fortunate or unfortunate, or upon any other chance or chances event or events contingency or contingencies relative or applicable to the drawing of any such ticket or tickets, whether as to the time of their being drawn or otherwise howsoever, shall be deemed rogues and vagabonds within the true intent and meaning of the said recited Act of the seventeenth year of the reign of his said late Majesty and shall be punishable as such rogues and vagabonds accordingly; and all persons who shall be found offending against this Act in the manner above-mentioned shall and may be apprehended and conveyed before some justice or justices of the peace as in and by the said recited Act in relation to the rogues and vagabonds therein described is directed; and the justice or justices before whom such offender shall be brought, such offender not having been sued or prosecuted for the same offence without covin or collusion in some of his Majesty's courts of record by such action of debt bill plaint suit or information as aforesaid, shall and may upon full and sufficient proof of the offence in the manner in and by the said recited Act directed order such offender to be sent to the house of correction, there to remain until the next general or quarter sessions of the peace for the

17 Geo. 2. c. 5. recited,

and extended to Persons who shall deal in Tickets without taking out a Licence pursuant to 22 Geo. 3. or sell Chances, &c.

Justices to commit Offenders to the House of Correction till the next Quarter Sessions,

No. XV.
27 Geo. III. c. 1.

county riding division or place where the said offence was committed; and the justices at such sessions shall enter upon the examination of the case and proceed therein according to the directions of the said recited Act of the seventeenth year of his said late Majesty; and all justices of the peace mayors bailiffs constables headboroughs and other his Majesty's civil officers within their respective jurisdictions are hereby empowered and strictly required to use their utmost endeavours to prevent the committing of any of the offences aforesaid by all lawful ways and means; and shall be and are hereby indemnified for any thing done in execution of this Act.

The Powers of recited Act 17 Geo. 2. extended to this Act.

III. And be it further enacted by the authority aforesaid, That all other the powers authorities rules directions punishments and provisions prescribed and inflicted in and by the said recited Act of the seventeenth year of his said late Majesty for the apprehending securing and punishing persons as rogues and vagabonds within the true intent and meaning of the said Act not hereby altered, shall be applied and carried into execution in relation to the persons hereby declared to be rogues and vagabonds, as fully to all intents and purposes as if the same powers authorities rules directions punishments and provisions and every of them had severally and respectively been re-enacted in this Act.

From the passing of this Act, the Possessor of a whole Ticket may insure it, by a written Agreement, for its own value.

IV. Provided always and be it further enacted by the authority aforesaid, That from and after the day on which this Act shall receive his Majesty's royal assent it shall and may be lawful for any person actually possessed of any whole undrawn ticket in any lottery now established or hereafter to be established by law in *Great Britain* to make or cause to be made on his or her ticket any insurance for the indemnifying himself or herself against any loss which he or she may sustain by adventuring in the said lottery for or by reason of such ticket, so as every contract or agreement for such insurance be reduced into writing (without being subject to any of the duties under the management of the commissioners of stamps) before the time of such ticket being drawn in the said lottery; and so as the name of the possessor of such ticket at the time of such insurance, the number thereof, the lottery to which such ticket shall belong and the amount of the premiums received thereon be respectively inserted and expressed in such agreement, and so as every such insurance be made upon a whole ticket or whole tickets only on condition to pay the full amount or value thereof, and not otherwise; any thing contained in this Act or in the said Act of the twenty-second year of the reign of his present Majesty, "For licensing Lottery-office Keepers and regulating the Sale of Lottery Tickets," to the contrary notwithstanding.

When an Insurance is made, it must be for the whole Time remaining of the Drawing; and the Ticket must be deposited with the Receiver-General of the Stamp Duties, or some Person appointed by him to receive it.

V. Provided always, That no such insurance shall be for a less time than shall then remain of the drawing of the said lottery; and that every such ticket so insured shall be deposited by the person so insuring the same in an office established or to be established by the commissioners for managing the duties upon stamped vellum parchment and paper for the time being, for the deposit of tickets intended to be sold in shares by virtue of an Act passed in the twenty-second year of his present Majesty's reign, intituled "An Act for licensing Lottery-office Keepers and regulating the Sale of Lottery Tickets," and shall be there left with the Receiver General of his Majesty's Stamp Duties or some person or persons to be appointed by him to receive the same, and who is and are hereby authorised and required to receive the same: Provided also, That every such ticket so deposited may be assignable, together with such insurance.

Tickets and Insurances assignable.

Persons not duly licensed making Insurances, liable to the Penalties of keeping unlicensed Lottery Offices.

VI. Provided always and be it further enacted by the authority aforesaid, That if any person or persons whatsoever, not being duly licensed under the said Act of the twenty-second year of his present Majesty's reign, shall from and after the day on which this Act shall receive his Majesty's royal assent, grant sign or underwrite any agreement for any such insurance as aforesaid; or shall take or receive any premium or consideration in the nature of a premium for such insurance, every such person or persons not duly licensed as aforesaid shall be subject to the

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27 Geo III. c 1.

like pains penalties and forfeitures as are inflicted on persons keeping lottery offices without the authority of such licence by the said Act of the twenty-second year of his present Majesty's reign or by this Act, to be levied and recovered inflicted applied and carried into execution as in and by this Act is directed and according to the true intent and meaning thereof

Offenders not to be liable to Prosecutions for pecuniary Penalties, and also as Vagabonds.

VII Provided always and be it further enacted by the authority aforesaid, That no person shall be liable to be prosecuted for any offence against this Act or such parts of the herein-before mentioned Acts or any of them as touch and concern lotteries by both the ways by this Act prescribed; nor shall any person against whom any action suit or information for the recovery of a pecuniary penalty hath been commenced and carried on with effect be liable to imprisonment as a rogue and vagabond under this Act for the same offence; and that where any person shall be convicted and sentenced to imprisonment as a rogue and vagabond under this Act, such person shall not be liable afterwards to be prosecuted for any pecuniary penalty for the same offence.

Nor before a Justice for Offences respecting Lotteries already established, unless Information has been made before Feb. 5, 1787.

VIII. Provided also and be it further enacted by the authority aforesaid, That no person or persons shall be subject or liable to any prosecution before any justice or justices of the peace for any offence against the herein-before mentioned Acts, touching and concerning any lottery now established or heretofore established in this kingdom, unless information thereof shall have been made on or before the fifth day of *February* one thousand seven hundred and eighty-seven.

His Majesty's Share of Penalties to be paid to the Receivers General of the Stamp Office.

IX. And be it further enacted, That all such penalties and forfeitures and shares of penalties and forfeitures and sums of money which shall belong to his Majesty his heirs and successors and which shall be received by any officer or officers in the execution of this Act shall be paid into the hands of the Receiver General of the Stamp Office for the time being, who shall keep a separate and distinct account thereof, and thereout shall pay the expence the said office shall be put to in executing this Act; and the said Receiver General shall pay the residue into the receipt of the Exchequer at such time and in such manner as other penalties and forfeitures due and payable to his Majesty are or shall be paid or payable

General Issue.

X. And be it further enacted by the authority aforesaid, That if any person or persons shall at any time or times be sued molested or prosecuted for any thing by him her or them done or executed in pursuance of this Act or of any clause matter or thing herein contained, such person or persons may plead the general issue and give the special matter in evidence for his her or their defence, and if upon the trial a verdict shall pass for the defendant or defendants or the plaintiff or plaintiffs shall become nonsuited, then such defendant or defendants shall have treble costs awarded to him her or them against such plaintiff or plaintiffs.

Treble Costs.

[No. XVI.] 34 George III. c. 40.—An Act for granting to his Majesty a certain Sum of Money to be raised by a Lottery.—[*9th May* 1794.]

P.

34 George III. c. 40.

On Complaint on Oath of Offences against 27 Geo III c 1. whereby the Parties may be liable to punishment as Rogues, Justices may authorize Persons to break open Houses, &c.

XXXVII. AND be it further enacted, That upon complaint or information made upon oath before any justice or justices of the peace of any offence committed against the said Act of the twenty-seventh year of the reign of his present Majesty in any house or place within the jurisdiction of any such justice or justices, whereby any of the offenders may be liable to punishment as rogues and vagabonds, it shall and may be lawful to and for the said justice or justices before whom such oath shall be taken if he or they shall judge it reasonable, by special warrant under his or their respective hands and seals to authorise and empower any person or persons by day or by night (but if in the night-time, then in the presence of a constable or other lawful officer of the peace who are hereby required to be aiding and assisting therein) to break open the doors or any part of such house or place where such offence shall have

No. XVI.
34 Geo. III. c. 40.

Persons discovered in such Houses concerned in carrying on illegal Transactions, to be punished as Rogues, and may be arrested, &c.

been committed, and to enter into such house or place and to seize and apprehend all such offenders and all other persons who shall be discovered in such house or place and who shall have knowingly aided or assisted or been any ways concerned with any such offender or offenders in committing such offence, and to convey them before any justice or justices of the peace of the county riding division city liberty or place wherein such person shall be so apprehended, to be dealt with according to law as aforesaid; and all persons who shall be discovered in such house or place knowingly aiding assisting or any ways concerned with such offender or offenders in carrying on any transactions respecting the said lotteries or either of them, contrary to the express provisions of the said Act of the twenty-seventh year aforesaid, shall be deemed rogues and vagabonds and punishable in like manner as is directed by the said Act or this Act as the case may require; and it shall and may be lawful for the officer or officers having the execution of such warrant and all other persons acting in his or their aid or assistance to stop arrest and detain all and every the person and persons so discovered in such house or place and to convey the said person or persons before such justice or justices of the peace as aforesaid; and if any person or persons shall forcibly obstruct oppose molest or hinder any such officer or officers or others acting in his or their aid or assistance in the due execution of their duty or in the due entering into such house or place, or in the seizing detaining or conveying before such justice or justices any such offenders or other persons as aforesaid, every such person so obstructing opposing molesting or hindering as aforesaid shall be deemed an offender against law and the public peace, and the court before whom any such offender shall be tried and convicted shall and may order such offender to be fined imprisoned and publickly whipped as in their discretion shall be thought fit; and all persons although not discovered in such house or place as aforesaid who shall employ or cause to be employed any person or persons in carrying on any of the transactions aforesaid or in aiding or assisting any such person or persons shall be deemed rogues and vagabonds and shall be punishable in like manner as is directed by the said Act of the twenty-seventh year aforesaid.

Penalty on Persons obstructing Officers, &c.

Offenders adjudged Rogues and Vagabonds may be committed.

XL. And be it further enacted, That if any person shall be brought before any two or more justices of the peace and shall be convicted of any offence or offences against the said Act of the twenty-seventh year of the reign of his present Majesty or of this Act, whereby such person shall be adjudged a rogue and a vagabond, it shall and may be lawful for such justices to order such offender to be sent to the house of correction, there to remain for any space of time not exceeding six calendar months nor less than one month and until the final period of the drawing of the lottery in respect whereof such offence shall be committed; and such proceedings shall not be subject to appeal nor shall be removed or removable by *certiorari* or otherwise into any court whatever.

Proceedings not removable by Certiorari.

[No. XVII.] 42 George III. c. 119.—An Act to suppress certain Games and Lotteries not authorized by law.—[28*th June* 1802.]

42 George III. c. 119.

All Games or Lotteries called Little Goes declared public Nuisances.

'WHEREAS evil-disposed persons do frequently resort to publick houses and other places to set up certain mischievous games or lotteries called little goes, and to induce servants children and unwary persons to play at the said games; and thereby most fraudulently obtain great sums of money from servants children and unwary persons to the great impoverishment and utter ruin of many families;' For remedy whereof be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That all such games or lotteries called little goes shall from and after the passing of this Act be deemed and are hereby declared common and publick nuisances and against law.

No. XVII.
42 Geo. III. c. 119.

II. And be it further enacted, That from and after the first day of *July* one thousand eight hundred and two no person or persons whatsoever shall publickly or privately keep any office or place to exercise keep open shew or expose to be played drawn or thrown at or in either by dice lots cards balls or by numbers or figures or by any other way contrivance or device whatsoever any game or lottery called a little goe or any other lottery whatsoever not authorised by Parliament, or shall knowingly suffer to be exercised kept open shewn or exposed to be played drawn or thrown at or in either by dice lots cards balls or by numbers or figures or by any other way contrivance or device whatsoever any such game or lottery in his or her house room or place upon pain of forfeiting for every such offence the sum of five hundred pounds, to be recovered in the court of Exchequer at the suit of his Majesty's Attorney General and to be to the use of his Majesty his heirs and successors; and every person so offending shall be deemed a rogue and vagabond within the true intent and meaning of an Act passed in the seventeenth year of the reign of his late Majesty King *George* the Second, intituled "An Act to amend and make more effectual the Laws relating to Rogues Vagabonds and other idle and disorderly persons and to Houses of Correction," and shall be punishable as such rogue and vagabond accordingly.

Persons keeping any Office or Place for any Game or Lottery not authorized by Law, &c. shall forfeit 500*l.* and be deemed Rogues and Vabonds within the Meaning of 17 Geo. 2. c. 5.

III. Provided always and be it further enacted, That every person so offending against this Act in manner herein-before mentioned, against whom no information shall have been made as aforesaid, shall be deemed a rogue and vagabond within the true intent and meaning of an Act passed in the seventeenth year of the reign of his late Majesty King *George* the Second, intituled "An Act to amend and make more effectual the Laws relating to Rogues Vagabonds and other idle and disorderly Persons and to Houses of Correction;" and also of another Act passed in the twenty-seventh year of the reign of his present Majesty, intituled "An Act to render more effectual the Laws now in being for suppressing unlawful Lotteries;" and shall be punishable as such rogue and vagabond according to the said Acts and this Act.

Offenders not proceeded against for Penalties shall be punishable as Rogues and Vagabonds under 17 Geo. 2. c. 5. and 27 Geo. 3. c. 1. [*And see post.* § 7.]

IV. And be it further enacted, That upon complaint or information made upon oath before any justice or justices of the peace of any offence committed against this Act in any house or place within the jurisdiction of any such justice or justices, whereby any of the offenders may be liable to punishment as rogues and vagabonds, it shall and may be lawful to and for the said justice or justices before whom such oath shall be taken if he or they shall judge it reasonable by special warrant under his or their respective hands and seals to authorise and empower any person or persons by day or by night (but if in the night-time then in the presence of a constable or other lawful officer of the peace who are hereby required to be aiding or assisting therein) to break open the doors or any part of such house or place where such offence shall have been committed, and to enter into such house or place and to seize and apprehend all such offenders and all other persons who shall be discovered in such house or place and who shall have knowingly aided or assisted or been any ways concerned with any such offender or offenders in committing such offence, and to convey them before any justice or justices of the peace of the county riding division city liberty or place wherein such persons shall be so apprehended to be dealt with according to law as aforesaid; and all such persons who shall be discovered in such house or place knowingly aiding assisting or anyways concerned with such offender or offenders in the carrying on any transactions respecting the said little goes or lotteries or either of them shall be deemed rogues and vagabonds and punishable in like manner as is directed by the said recited Act of the seventeenth year of the reign of his late Majesty King *George* the Second; and it shall and may be lawful for the officer or officers having the execution of such warrant and all other persons acting in his or their aid or assistance to stop arrest and detain all and every the person and persons so discovered in such house or place, and to convey the said person and persons before such justice or justices of the peace as aforesaid; and if any person or

Justice on Information may authorize Persons to break open Doors of Places (if at Night, with a Peace Officer) where such Offences are committed, and apprehend Offenders, &c.

Penalty for obstructing Persons in the Execution of their Duty, Fine and Imprisonment, &c.

No. XVII.
42 Geo. III.
c. 119.

persons shall forcibly obstruct oppose molest or hinder any such officer or officers or others acting in his or their aid or assistance in the due execution of their duty or in the due entering into such house or place or in the seizing detaining or conveying before such justice or justices any such offenders or other persons as aforesaid, every such person so obstructing opposing molesting or hindering as aforesaid shall be deemed an offender against law and the publick peace, and the court before whom any such offender shall be tried and convicted shall and may order such offender to be fined imprisoned and publickly whipped as in their discretion shall be thought fit; and all persons although not discovered in such house or place as aforesaid who shall employ or cause to be employed any person or persons in carrying on any of the transactions aforesaid or in aiding or assisting any such person or persons, shall be deemed rogues and vagabonds and shall be punishable in like manner as is directed by an Act passed in the twenty-seventh year of the reign of his present Majesty.

Persons employing others shall be deemed Rogues and Vagabonds.

V. And be it further enacted, That from and after the passing of this Act no person or persons whatever shall on or under any pretence device form denomination or description whatsoever promise or agree to pay any sum or sums or to deliver any goods or to do or forbear doing any thing for the benefit of any person or persons, whether with or without consideration, on any event or contingency relative or applicable to the drawing of any ticket or tickets lot or lots numbers or figures in any such game or lottery or to publish any proposal for any of the purposes aforesaid; and if any person or persons shall offend in any of the matters aforesaid, he she or they shall for every offence forfeit and pay the sum of one hundred pounds.

No Person shall agree to pay Money or deliver Goods, &c. on any Event relative to such Game or Lottery, or publish any Proposal; Penalty 100*l.*

VI. And be it further enacted, That it shall and may be lawful for any person whatever to apprehend on the spot any person or persons so offending and to convey or cause to be conveyed before any magistrate or justice of the peace residing near the place where such offence shall be committed, the person or persons so apprehended to be proceeded against under this Act; and when any person or persons shall be apprehended or brought before any magistrate or justice aforesaid for any such offence, it shall be lawful for such magistrate or justice to proceed to examine into the circumstances of the case, and upon due proof or upon oath or solemn affirmation of any such offence committed against this Act to give judgment or sentence accordingly; and where the party accused shall be convicted of such offence and such penalty shall not be immediately paid, to commit such offender to prison for any space of time not exceeding six calendar months nor less than one calendar month without bail or mainprize and without appeal or until such penalty shall be satisfied; and every such penalty when paid upon conviction shall go and be applied, one third thereof to his Majesty, one third thereof to the use of the informer or informers, and the other third thereof to the person or persons apprehending or securing such offender or offenders. (1.)

Offenders may be apprehended on the Spot by any one and carried before a Justice, who shall, on the Penalty not being paid, commit them for six Months, or till Payment, without Appeal.

Application of the Penalty.

VII. And be it further enacted, That from and after the passing of this Act all pains forfeitures fines and penalties and all provisions powers authorities rules regulations restrictions exemptions and exceptions clauses matters and things contained in an Act passed in the twenty-seventh year of the reign of his present Majesty, intituled "An Act to render more effectual the Laws now in being for suppressing unlawful Lotteries," shall extend and be deemed construed and taken to extend and shall apply and be in full force and put in execution in all cases and for all purposes as to all the provisions of this Act, and of another Act passed in this session of Parliament, intituled "An Act for granting to his Majesty a certain Sum of Money to be raised by Lotteries," in all

The Provisions of 27 Geo. 3. c. 1. shall extend to this Act, and the Lottery Act, c. 54. of this Session.

(1.) This Section, it will be observed, directs the Penalty to be distributed, one-third to the King, one-third to the Informer, and one-third to the person apprehending or securing the Offender; a Conviction directing the Penalty to be distributed as the Law directs, without ascertaining to whom the last third is to be paid (the person being uncertain) is bad, Rex. *v.* Seal, 8 E. R. 568.

No. XVII.
42 Geo. III. c. 119.

cases where no special or different provision is made by this or the said last recited Act in as full and ample a manner to all intents and purposes as if the said Act and all pains forfeitures fines and penalties provisions powers authorities rules regulations restrictions exemptions exceptions clauses matters and things contained and enacted therein were particularly and expressly repeated and re-enacted in the body of this present Act and had been repeated and enacted in the body of the said recited Act of this session of Parliament.

VIII. And be it further enacted, That if any sheriff's officer or other person or persons shall be sued molested or prosecuted for any thing done by virtue or in pursuance of this Act, such sheriff's officer or other person or persons shall and may plead the general issue and give this Act and the special matter in evidence in his her or their defence or defences; and if afterwards a verdict shall pass for the defendant or defendants, or the plaintiff or plaintiffs shall discontinue his her or their action or prosecution or be non-suited, or judgment shall be given against him her or them upon demurrer or otherwise, then such defendant or defendants shall have treble costs awarded to him her or them against any such plaintiff or plaintiffs.

General Issue.

Treble Costs.

PART VI.

CLASS XXI

Gaols and Houses of Correction.

[No. I.] 4 Edward III. c. 10.—Sheriffs and Gaolers shall receive Offenders without taking any Thing.

[No. II.] 14 Edward III. St. 1. c. 10.—Sheriffs shall have the keeping of Gaols. A Prisoner by Duress becometh an Approver.

[No. III.] 5 Henry IV. c. 10.—Justices of Peace shall imprison none but in the common Gaol.

[No. IV.] 3 Henry VII. c. 3.—Justices of Peace may let Prisoners to Bail. The Sheriff shall certify the Names of all his Prisoners at the Gaol Delivery.

[Inserted Part V. title *Proceedings in Criminal Cases.*]

[No. V.] 19 Henry VII. c. 10.—Sheriffs.

19 Henry VII c. 10.

The Sheriffs shall have the keeping of the common Gaols, and the Prisoners therein. 14 Ed. 3. st. 1. c. 10.

BE it ordained established and enacted by the King our Sovereign Lord, by the advice and assent of his Lords Spiritual and Temporal and the Commons in this present Parliament assembled, and by authority of the same, That every sheriff within every county within this realm of *England* have the custody rule keeping and charge from the *Quindecim Pasche* next coming of every of the King's common gaols prisons and prisoners in the same in every of the said counties where he is sheriff during the time of his office, except all gaols whereof any person or persons spiritual or temporal or body corporate have the keeping of estate of inheritance or by succession, (2) and from the same *Quindecim* of *Pasche* next coming, that all letters patent made to any person or persons for term of life or lives or for term of years of the keeping of the said gaols and of any constableship of any castle wherein any such common gaol is, by the King our Sovereign Lord or any other Kings of this land and every thing in the said letters patent contained be from henceforth repealed adnulled void and of no force ne effect in the law: (3) And that every such sheriff from the said *Quindecim* of *Pasche* be charged and chargeable with the said gaols prisons and the prisoners remaining in the same.

[Several Penalties for the negligent Escape of several Sorts of Offenders. Exp.—A Saving of other Men's Rights for Escapes, and Fines for the same.—The Penalty for negligent Escapes before the Prisoner be brought to the Gaol. Exp.—Letters Patent of Offices not requiring actual Exercise shall be void.—The Continuance of this Act concerning Penalties.—The Sheriff of Surrey shall not have the keeping of the King's Bench and Marshalsea.—Edward Courtney Earl of Devonshire's Patent except. John Morgan's Patent except.]

[No. VI.] 3 James I. c. 10.—An Act for the rating and levying of the Charges for conveying Malefactors and Offenders to Gaol.

P.

3 James I. c. 10.

At whose Charge an Offender shall be conveyed to Gaol.

'WHEREAS his Majesty's honest and loving subjects are much charged and burthened in conveying felons and other malefactors and offenders against his Majesty's laws and statutes unto the gaol, punishable by imprisonment there, the said felons and other malefactors and offenders having goods and chattels of their own whereby to defray the same charges themselves to the great encouragement of such malefactors and offenders in their said wicked and bad courses and to the discouragement of his Majesty's said honest and loving subjects in prosecuting the said malefactors and offenders to be punished according to their demerits:' Be it enacted by the King's most excellent Majesty, the Lords Spiritual and Temporal and the Commons in this present Parliament assembled, and by authority of the same, That all and every person and persons whatsoever that from and after the end of this present session of Parliament shall be committed to the common or usual gaol within any county or liberty within this realm by any justice or justices of the peace for any offence or misdemeanour to any such gaol, that the said person or persons so to be committed as aforesaid having means or ability thereunto shall bear their own reasonable charges for so conveying or sending them to the said gaol and the charges also of such as shall be appointed to guard them to such gaol and shall so guard them thither: And if any such person or persons so to be committed as aforesaid shall refuse at the time of their commitment and sending to the said gaol to defray the said charges or shall not then pay or bear the same, that then such justice or justices of the peace shall and may by writing under his or their hand and seal or hands and seals give warrant to the constable or constables of the hundred, or constable or tithingman of the tithing or township where such person or persons shall be dwelling and inhabit, or from whence he or they shall be committed as aforesaid, or where he or they shall have any goods within the county or liberty, to sell such and so much of the goods and chattels of the said persons so to be committed as by the discretion of the said justice or justices of the peace shall satisfy and pay the charges of such his or their conveying and sending to the said gaol, the appraisement to be made by four of the honest inhabitants of the parish or tithing where such goods or chattels shall remain and be, and the overplus of the money which shall be made thereof to be delivered to the party to whom the said goods shall belong.

How the Charges shall be levied if the Prisoner shall refuse to pay them.

[II. If the Offender be not able to bear his Charges, the Parishioners shall do it.—The Remedy if any Person taxed refuse to pay.—Repealed 27 Geo. III. c. 3. Vi. ante title *County Rates*.]

The Defendant's Plea in an Action brought for any Thing done by force of this Act.

III. And be it enacted by the authority of this present Parliament, That if any action of trespass or other suit shall happen to be attempted or brought against the person or persons for taking of any distress, making of any sale or any other act by authority of this present Act, the defendant or defendants in any such action or suit shall and may either plead not guilty or otherwise make avowry cognisance or justification for the taking of the said distresses, making of sale or other act by virtue of this Act, (2) alleging in such avowry cognisance or justification that the said distress sale trespass or other thing whereof the plaintiff or plaintiffs complained was done by authority of this Act and according to the tenor purport and effect of this Act, without any expressing or rehearsal of any other matter of circumstance contained in this present Act: (3) to which avowry cognisance or justification the plaintiff shall be admitted to reply, that the defendant did take the said distress made the said sale or did any other act or trespass supposed in his declaration of his own wrong, without any such cause alleged by the said defendant; whereupon the issue in every such action shall be joined to be tried by verdict of twelve men and not otherwise, accustomed in other personal actions; (4) and upon the trial of that issue the whole matter to be given on both parties in evi-

No. VI.
3 James I. c. 10.

The Defendant shall recover Treble Damages and Costs of Suits.

dence according to the very truth of the same; (5) and after such issue tried for the defendant or nonsuit of the plaintiff after appearance, the said defendant to recover treble damages by reason of his wrongful vexation in that behalf with costs also on that part sustained, and that to be assessed by the same jury or writ to inquire of the damages as the same shall require: (6) This Act to continue until the end of the first session of the next Parliament. [3 Car. 1. c. 4. Continued until the end of the first session of the next Parliament and farther continued by 16 Car. 1. c. 4.]

[No. VII.] 7 James I. c. 4.—An Act for the due Execution of divers Laws and Statutes heretofore made against Rogues, Vagabonds and sturdy Beggars, and other lewd and idle Persons.

7 James I. c. 4. 39 Eliz. c. 4. & 5. Houses of Correction shall be provided: and the Government of them. 2 Inst. 728. * *Burn V.* 2. 525.

'WHEREAS heretofore divers good and necessary laws and statutes have been made and provided for the erection of houses of correction for the suppressing and punishing of rogues vagabonds and other idle vagrant and disorderly persons; which laws have not wrought so good effect as was expected, as well for that the said houses of correction have not been built according as was intended, as also for that the said statutes have not been duly and severely put in execution, as by the said statutes were appointed;' (2) For remedy whereof be it enacted and established by our Sovereign Lord the King's Majesty, and by the Lords Spiritual and Temporal and by the Commons in this present Parliament assembled, and by the authority of the same, That all laws and statutes now in force made for the erecting and building of houses of correction, and for punishing of rogues vagabonds and other wandering and idle persons, shall be put in due execution.

There shall be a House of Correction provided in every Shire to set idle Persons to work. 39 Eliz. c. 4.

II. And be it further enacted and established by the authority aforesaid, That before the Feast of *Saint Michael* the Archangel one thousand six hundred and eleven there shall be erected built or otherwise provided within every county of this realm of *England* and *Wales*, where there is not one house of correction already built purchased provided or continued, one or more fit and convenient house or houses of correction, with convenient backside thereunto adjoining, together with mills turns cards and such like necessary implements to set the said rogues or such other idle persons on work; the same houses to be built erected or provided in some convenient place or town in every county; (2) which houses shall be purchased conveyed or assured unto such person or persons as be the justices of peace, or the more part of them in their quarter sessions of the peace to be holden within every county of this realm of *England* and *Wales* upon trust, to the intent the same shall be used and employed for the keeping correcting and setting to work of the said rogues vagabonds sturdy beggars and other idle and disorderly persons.

The Forfeiture of every Justice of Peace if the House of Correction be not provided.

III. And be it further enacted by the authority aforesaid, That if the said house so to be erected purchased or provided, shall not be erected built or otherwise provided before the Feast of *Saint Michael* the Archangel, which shall be in the year one thousand six hundred and eleven next ensuing the last day of this present session of Parliament, That then every justice of peace within every county of this realm of *England* and *Wales* where such house and backside shall not be erected or provided, shall forfeit for his said neglect five pounds of lawful *English* money; (2) the one moiety thereof to be unto him or them that will sue for the same by action of debt bill plaint or information; in which suit no protection essoign or wager of law shall be admitted; and the other moiety thereof to be employed and bestowed towards the erecting building procuring or providing the said house and backside and such necessary implements as aforesaid.

A Governor shall be appointed of every House of Correction, and his Authority.

IV. And be it further enacted and established by the authority aforesaid, That the justices of peace of every county within the realm of

England and *Wales* at their quarter sessions of the peace to be holden for their several counties (next after the erecting providing or building of the said house or houses, and so from time to time) or the most part of them, shall elect nominate and appoint at their will and pleasure one or more honest fit person or persons to be governor or master of the said house or houses so to be purchased erected built or provided: (2) which person and persons so chosen by virtue of this present Act shall have power and authority to set such rogues vagabonds idle and disorderly persons as shall be brought or sent unto the said house to work and labour (being able) from time to time, for such time as they shall continue and be remaining in the said house of correction, and to punish the said rogues vagabonds idle and disorderly persons by putting fetters or gyves upon them and by moderate whipping of them: (3) and that the said rogues vagabonds and idle persons during such times as they shall continue and remain in the said house of correction, shall in no sort be chargeable to the country for any allowance either at their bringing in or going forth or during the time of their abode there, but shall have such and so much allowance as they shall deserve by their own labour and work.

The Rogues shall not be chargeable to the Country.

V. And be it further enacted by the authority aforesaid, That the said justices of peace of every county within every of their several divisions twice in every year at the least and oftener if there be occasion shall assemble and meet together for the better execution of this statute: and that some four or five days before their assembly and meeting the said justices or the more part of them shall by their warrant command the constables and tythingmen of every hundred town parish village and hamlet within their said several divisions, which shall be assisted with sufficient men of the same places to make a general privy search in one night within their said hundreds towns villages and hamlets, for the finding out and apprehending of the said rogues vagabonds wandering and idle persons; (2) and that such rogues vagabonds wandering and idle persons as they shall then find and apprehend in the said search shall by them be brought before the said justices at their said assembly or meeting, there to be examined of their idle and wandering life, there to be punished or otherwise by their warrant to be sent or conveyed unto the said house or houses of correction within the said county appointed and prefixed there, to be delivered to the master or governor of the said house or to his deputy or assignee, to be set to labour and work; (3) at which days and times of assembly and meeting so to be held by the said justices of peace the constables and tythingmen of every hundred parish town village and hamlet shall then appear in every their several divisions before the said justices of peace at the said assemblies or meetings and there shall give account and reckoning upon oath in writing and under the hand of the minister of every parish what rogues vagabonds and wandering and disorderly persons they have apprehended, both in the same search and also between every such assemblies and meetings, and how many have been by them punished or otherwise sent unto the houses of correction: which if the said constables or tythingmen shall neglect to perform, as also to convey safely all such rogues with all other idle and disorderly persons at the charge of the hundred, as by the justices of peace their warrants shall be sent unto the houses of correction in the same county; that then they shall forfeit such further fines pains and penalties as by the said justices of peace or the most part of them shall be thought fit and convenient, not exceeding the sum of forty shillings for every offence.

General privy Search shall be made in every Hundred, Town, &c.

Repealed by 12 Annæ, stat. 2. c. 23. sect. 28.

The Constable's Account of Vagabonds apprehended.

VI. 'And for that it is convenient that the masters or governors of 'the said houses of correction should have some fit allowance and 'maintenance for their travel and care to be had in the said service, as 'also for the relieving of such as shall happen to be weak and sick in 'their custody, and that the subjects of this realm should in no sort be 'over-charged to raise up money for stocks to set such on work as shall 'be committed to their custody;' (2) Be it therefore enacted and established by the authority of this present Parliament, That the master or

The Governor's Allowance for his Pains and Maintenance.

No. VII.
7 James I. c. 4.

43 Eliz. c. 2.

governors of the said houses of correction shall have such sums of money yearly as shall be thought meet by the most part of the justices of peace within the said county at the quarter sessions of the peace, the same to be paid quarterly before-hand by the treasurers appointed by one Act made in the three-and-fortieth year of the late Queen *Elizabeth*, intituled *An Act for the Relief of the Poor*, during the time they the said masters and governors shall be employed in the said service (the said master or governor giving sufficient security for the continuance and performance of the said service) (3) which if the said treasurer shall neglect or refuse to perform, that then the said master or governor of the house of correction shall have authority by this present Act to levy the same or so much thereof as shall be unpaid upon the said treasurer's account in such manner and form as by the said statute they the said treasurers are appointed and authorised to levy the weekly sum or payment being to them unpaid.

The Punishment of lewd Women who have Bastards. 18 Eliz. c. 3. 2 Bulst. 348. 3 Car. I. c. 4. § 15.

VII. 'And because great charge ariseth upon many places within this 'realm by reason of bastardy, besides the great dishonour of Almighty 'God,' Be it therefore enacted by the authority aforesaid, That every lewd woman which after this present session of Parliament shall have any bastard which may be chargeable to the parish, the justices of peace shall commit such lewd woman to the house of correction, there to be punished and set on work during the term of one whole year; and if she shall eftsoons offend again, That then to be committed to the said house of correction as aforesaid, and there to remain until she can put in good sureties for her good behaviour not to offend so again.

A Remedy for them that run away and leave their Children to the Charge of the Parish. 5 Geo. I. c. 8.

VIII. 'And for that many wilful people finding that they having 'children have some hope to have relief from the parish wherein they 'dwell, and being able to labour and thereby to relieve themselves and 'their families do nevertheless run away out of their parishes and leave 'their families upon the parish;' (2) For remedy whereof, Be it further enacted by this present Parliament and the authority of the same, That all such persons so running away shall be taken and deemed to be incorrigible rogues, and endure the pain of incorrigible rogues: (3) And if either such man or woman being able to work, and shall threaten to run away and leave their families as aforesaid, the same being proved by two sufficient witnesses upon oath before two justices of peace in that division; that then the said persons so threatening shall by the said justices of peace be sent to the houses of correction, (unless he or she can put in sufficient sureties for the discharge of the parish) there to be dealt with and detained as a sturdy and wandering rogue, and to be delivered at the said assembly or meeting or at the quarter sessions and not otherwise.

The Governors shall give Account to the Justices of all Persons committed to their Custody.

IX. 'And because there shall be the more care taken by all such mas-'ters of the houses of correction, that when the country hath been at 'trouble and charge to bring all such disorderly persons as aforesaid to 'their safe keeping, that then they shall perform their duties in that 'behalf;' (2) Be it therefore enacted by the authority aforesaid, That if they shall not every quarter sessions yield a true and lawful account unto the justices of peace of all such persons as have been committed to their custody, or if the said persons committed to their custody or any of them shall be troublesome unto the country by going abroad, or otherwise shall escape away from the said house of correction before they shall be from thence lawfully delivered; that then the said justices shall set down such fines and penalties upon the said master and governors, as the most part of them in their quarter sessions shall think fit and convenient; (3) and all fines and penalties not herein-before limited shall be paid unto the treasurer, and accounted for by the treasurer aforesaid. (4) This Act to have continuance for the space of seven years, and from thence to the end of the next session of Parliament after the said seven years. [3 Car 1. c. 4. Continued until the end of the first session of the next Parliament, and farther continued by 16 Car 1. c. 4.]

The Continuance of this Act.

No. VIII.

[No. VIII.] 19 Charles II. c. 4.—An Act for Relief of poor Prisoners and setting them on Work.

19 Car. II. c. 4.

19 Charles II. c. 4.

14 Eliz. c. 5. 43 Eliz. c. 2. § 14.

'WHEREAS there is not yet any sufficient provision made for the relief and setting on work of poor and needy persons committed to the common gaol for felony and other misdemeanors, who many times perish before their trial; and the poor there living idly and unemployed become debauched and come forth instructed in the practice of thievery and lewdness;' (2) For remedy whereof, be it enacted by the King's most excellent Majesty, with advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by authority of the same, That the justices of the peace of the respective counties at any their general sessions or the major part of them then there assembled, if they shall find it needful so to do, may provide a stock of such materials as they find convenient for the setting poor prisoners on work, in such manner and by such ways as other county charges by the laws and statutes of the realm are and may be levied and raised; and to pay and provide fit persons to oversee and to set such prisoners on work; (3) and make such orders for accounts of and concerning the premises as shall by them be thought needful, and for punishment of neglects and other abuses, and for bestowing of the profit arising by the labour of the prisoners so set on work for their relief, which shall be duly observed; and may alter revoke or amend such their orders from time to time. (4) Provided that no parish be rated above six pence by the week towards the premises, having respect to the respective values of the several parishes.

How Stocks may be provided for setting the Poor on work.

II. 'And whereas sometimes by occasion of the plague and other 'whiles by the great number of prisoners great and infectious diseases 'have happened among the prisoners, whereby it hath come to pass 'sometimes that the judges justices and jurors have upon occasion of 'their attendance at the trial of prisoners been infected and many of 'them died thereof, and sometimes such infection hath spread in the 'country:' (2) For some remedy therein be it by the same authority enacted, That any sheriff of the respective counties having the custody of the gaol or such persons who have the custody of the gaol with the advice and consent of three or more justices of the peace whereof one to be of the *quorum*, may if they shall on inquiry or information find it needful upon emergent occasions in the respective counties provide other safe places for the removal of sick or other persons from and out of the ordinary and usual gaols; (3.) the same places to be used and employed for the reception and custody of the prisoners to be by or according to their order or orders kept ordered disposed and conveyed to the places appointed for the gaol delivery in such and like manner as such prisoners ought to be kept ordered disposed and conveyed in and from the common gaols by the laws and statutes of the land. Provided no such place be made use of for the purposes aforesaid against the good and free will of the owners thereof.

Sickness and Diseases happening among Prisoners.

III. Provided also and be it enacted by the authority aforesaid, That the mayor bailiff and other head officer or any other person and persons who have and hath the custody of the common gaol within any corporation of this kingdom and dominion of *Wales*, shall by and with the advice of three or more justices of peace within the said corporation, whereof one of them to be of the *quorum*, in time of infection have the like power and authority for removing his and their prisoners into some other convenient place within their jurisdiction as to them shall seem fit during the time of infection; and also to raise a stock after the same rates and proportions as is herein-before allowed to and for the several counties of this kingdom.

Removing of Prisoners.

[Section IV. relates only to the County of *Devon*.]

No. IX.
31 Car. II. c. 2.

[No. IX.] 31 Charles II. c. 2.—An Act for the better securing the Liberty of the Subject, and for Prevention of Imprisonment beyond the Seas.

[Inserted Part IV. title *Arrest and Imprisonment.*]

[No. X.] 11 & 12 William III. c. 19.—An Act to enable Justices of Peace to Build and Repair Gaols in their respective Counties.

11 & 12 Will. III. c. 19. Continued by 10 Ann, c. 14. which is 'made perpetual 6 Geo. 1. c. 19.'

Justices of Peace on Presentment of the Grand Jury, &c. of the Insufficiency, &c. of any Gaol, &c. may agree on a Sum for building or repairing a publick Gaol, and may charge the Sums to be levied on the several Hundreds, &c. of the County.

'WHEREAS for want of due repair several Gaols and Prisons within 'this realm are become prejudicial to the health of prisoners and 'insufficient for the safe custody of them;' Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That it shall and may be lawful for the justices of the peace or the greater number of them within the limits of their commissions upon presentment of the grand jury or grand juries at the assize great sessions and general gaol delivery held for the said county of the insufficiency or inconveniency of their gaol or prison, to conclude or agree upon such sum or sums of money as upon examination of able and sufficient workmen shall be thought necessary for the building finishing or repairing a publick gaol or gaols belonging to the shire or county whereof they are justices of the peace; and by warrant under their hands and seals or under the hands and seals of the greater number of them by equal proportion to distribute and charge the sum or sums of money to be levied for the uses aforesaid upon the several hundreds lathes wapentakes rapes wards or other divisions of the said county; and the justices of the peace are hereby authorised and empowered at the general quarter sessions held for the respective division of the said county to direct their warrants or precepts to high constables petty constables bailiffs or other officer or officers as they in their discretion shall think most convenient for levying and collecting the same.

If Persons refuse to pay the Assessment,

Collector may levy the same by Distress.

II. And be it further enacted and declared, That if any person or persons shall refuse or neglect to pay his or their assessment by the space of four days after the demand thereof by the proper officer appointed to collect the same or shall convey away his or their goods or estate whereby the sum or sums of money so assessed cannot be levied, then it shall and may be lawful to and for the said collectors by warrants from any one of the justices of the peace present at the said general quarter sessions as aforesaid, to levy the sum so assessed by distress and sale of the goods and chattels of such persons so refusing or neglecting to pay, and the goods and chattels then and there found and the distress so taken to keep by the space of four days at the costs and charges of the owner thereof; and if the said owner do not pay the sum or sums of money so rated or assessed within the space of the said four days then the said distress to be appraised by two or more of the inhabitants where the same shall be taken or other sufficient persons and to be sold by the collector for payment of the said money, and the overplus of such sale (if any be) over and above the sum so assessed and charges of taking and keeping of the distress to be immediately returned to the owner thereof;

Justices to appoint a Receiver, who shall give Security.

and the said justices of the peace are hereby authorised and empowered under their hands and seals or under the hands and seals of the greater number of them to constitute and appoint one or more sufficient person or persons to be receiver of the money so assessed; the said receiver first giving security to be accountable when thereunto required for all sums of money received or disbursed by him in pursuance of such order as he shall have received under the hands and seals of the justices of the peace or the greater number of them; and if the said receiver or receivers high constable petty constable or other officers shall by the

Penalty on Receiver, Collector, &c. refusing to account.

space of four days after demand refuse to account for all sums of money received by them in pursuance of this Act, then it shall and may be lawful for the justices of the peace or the greater number of them to commit him or them to prison, there to remain without bail or mainprize until he or they shall have made a true account, satisfied or paid such sum or sums of money as shall appear to remain in his or their hands; and the receipt of such receiver shall be a sufficient discharge to all high constables petty constables or other officer or officers paying their proportion of such assessments; and the discharge under the hands and seals of the justices of the peace or the greater number of them at the assize great sessions and general gaol delivery to such their receivers shall be deemed and allowed as a good and sufficient release acquittance or discharge in any court of law or equity to all intents and purposes whatever; and the said justices of the peace are hereby authorised and empowered to covenant contract and agree with any person or persons for the well and sufficient building finishing or repairing of the said gaol or gaols.

Receiver's Receipt a Discharge to Collectors.

III. And be it further enacted by the authority aforesaid, That all murderers and felons shall be imprisoned in the said common gaol and not elsewhere, and that the sheriff shall have the keeping of the said gaols.

Felons kept in Common Gaols.

IV. Provided always, That this Act be not in any wise hurtful or prejudicial to any person or persons having any common gaol by inheritance for term of life or for years, but that they shall have and enjoy the said gaols and the profits fees and commodities of the same as they had or might lawfully have had before making this Act and as if this Act never had been made.

Act not to prejudice Gaols held by Inheritance, &c.

V. Provided, That this Act shall not extend to charge any person inhabiting in any liberty city town or borough corporate which have common gaols for felons taken in the same, and commissions of assize or gaol delivery of such felons, for any assessment to the making the common gaol or gaols of the respective shire or county.

Inhabitants in any Liberty, &c. who have a Common Gaol, not chargeable.

VI. And be it further enacted by the authority aforesaid, That if any action plaint suit or information shall be commenced or prosecuted against any person or persons for what he or they shall do in pursuance or in execution of this Act, such person or persons so sued in any court whatever shall and may plead the general issue not guilty, and upon any issue joined may give this Act and the special matter in evidence; and if the plaintiff or prosecutor shall become nonsuit, or forbear further prosecution or suffer a discontinuance, or if a verdict pass against him, the defendants shall recover their treble costs, for which they shall have the like remedy as in any case when costs by law are given to defendants.

General Issue.

reble Costs.

VII. And be it further enacted, That where any prisons or gaols belonging to any county of this realm or the dominion of *Wales* are situate upon any lands or hereditaments of or belonging to the King's Majesty in right of the Crown, that the said lands and hereditaments with their and every of their appurtenances shall not at any time be alienated from the Crown, but remain and be for the public service and benefit of the county.

If Gaols be situate on the Crown Lands, such Lands shall not be alienable.

VIII. Provided always and it is hereby enacted, That it shall not be lawful for any collector or other officer to enter into the mansion-house of any peer or peeress of this realm to distrain for the duties aforesaid.

No Officer to enter into Peer's House to distrain, &c.

IX. Provided, That this Act shall continue and be in force for the space of ten years and from thence to the end of the next session of Parliament and no longer. [Made perpetual by 6 *Geo.* I. cap. 19. sect. 1.]

Act to continue 10 Years. 1 Geo. I. c. 26.

[No. XI.] 6 George I. c. 19.—An Act for making perpetual so much of an Act made in the Tenth Year of the Reign of Queen *Anne*, for the reviving and continuing several Acts therein mentioned, as relates to the building

No. XI.
6 Geo. I. c. 19.

and repairing County Gaols; and also an Act of the Eleventh and Twelfth Years of the Reign of King *William* the Third, for the more effectual Suppression of Piracy; and for making more effectual the Act of the Thirteenth Year of the Reign of King *Charles* the Second, intituled, "An Act for establishing Articles and Orders for the regulating and better Government of his Majesty's Ships of War and Forces by Sea."

6 Geo. I. c. 19. 10 Ann, c. 14. § 2.

'WHEREAS in an Act made in the tenth year of the reign of Queen 'Anne, intituled "An Act for the reviving and continuing several 'Acts therein mentioned for the preventing of Mischiefs which may happen by fire; for building and repairing County Gaols; for exempting of 'Apothecaries from serving Parish and Ward Offices and serving upon 'Juries; and relating to the returning of Jurors;" there is a clause relating to the building and repairing county gaols which by experience has 'been found very useful and beneficial to the publick and will expire at 'the end of this present session of Parliament;' Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That so much of the said Act made in the tenth year of the reign of Queen *Anne* as relates to the building and repairing county gaols shall be and is hereby made perpetual.

So much of the recited Act as relates to County Gaols made perpetual.

39 El. c. 17. 7 Jac. 1. c. 4.

II. 'And whereas vagrants and other criminals offenders and persons 'charged with small offences are for such offences or for want of sureties 'to be committed to the county gaol, it being adjudged that by law the 'justices of the peace cannot commit them to any other prison for safe 'custody which by experience hath been found to be very prejudicial and 'expensive;' Be it enacted by the authority aforesaid, That it shall and may be lawful to and for the justices of the peace within their respective jurisdictions to commit such vagrants and other criminals offenders person and persons either to the common gaol or house of correction as they in their judgment shall think proper; any law custom or usage to the contrary notwithstanding.

Justices of Peace may commit Vagrants, &c. to the Common Gaol or House of Correction. See farther, 14 Geo. 2. c. 33. and 3 Burr. 1679.

The Act of 11 & 12 Will. III. c. 7. made perpetual.

III. And be it further enacted by the authority aforesaid, That the Act made in the eleventh and twelfth years of the reign of his late Majesty King *William* the Third, intituled "An Act for the more effectual Suppression of Piracy," shall be and is hereby made perpetual.

"Persons in the sea-service who shall commit any of the crimes mentioned in 13 *Car.* 2. stat. 1. c. 9. upon the shore in foreign parts shall "be tried and punished as if they had been committed on the main sea." Rep. 22 *Geo.* 2. c. 33.

[No. XII.] 14 George II. c. 33.—An Act to supply some Defects in the Laws for repairing and rebuilding County Bridges, for repairing, enlarging, erecting, and providing Houses of Correction, and for passing Rogues and Vagabonds.

[Inserted ante Class VI. No. 3.]

[No. XIII.] 15 George II. c. 24.—An Act to empower the Justices of the Peace of a Liberty or Corporation, to commit Offenders to the House of Correction of the County, Riding, or Division, in which such Liberty or Corporation is situate.

15 George II. c. 24. 9 Geo. I. c. 7.

'WHEREAS doubts and questions have arisen touching the commitment of offenders by justices of the peace of liberties and corpora-

No. XIII. 15 Geo. II. c. 24.

'tions to the houses of correction of counties ridings or divisions in which 'such liberties and corporations are situate, though the inhabitants of 'such liberties and corporations contribute to the maintenance and sup-'port of such houses of correction;' Be it therefore declared and enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That in all cases where any person liable by law to be committed to the house of correction shall be apprehended within any liberty city or town corporate whose inhabitants are contributory to the support and maintenance of the house or houses of correction of the county riding or division in which such liberty city or town corporate is situate: it shall and may be lawful for the justices of the peace of such liberty city or town corporate to commit such person to the house of correction of the county riding or division in which such liberty city or town corporate is situate; which person so committed shall and may be received detained dealt with and ordered and be set and kept to hard labour, or conveyed and sent away or discharged and be subject and liable to the same correction and punishment to all intents and purposes as if committed by any justice or justices of the peace of the same county riding or division (1)

Justices of a Liberty or Corporation may commit Offenders to the House of Correction of the County, &c.

(1.) This Act is a declaratory Act, and should have a liberal construction, and therefore where Justices of a Borough contributory to the County Rate, have committed Prisoners to the County House of Correction for Offences cognizable within the County, the Justices at their Borough Sessions have a right to order such Prisoners to be brought before them for trial there. Quære, also, where a County Magistrate having concurrent jurisdiction, has committed a Prisoner for an Offence within the Borough, whether the Borough Sessions have not the same power of ordering such Prisoner to be brought before them for trial? Rex v. Amos, 2 B. and A. 533.

[No. XIV.] 17 George II. c. 5.—An Act to amend and make more effectual the Laws relating to Rogues, Vagabonds, and other idle and disorderly Persons, and to Houses of Correction.

[Inserted post. title *Vagrants*, Vol. VIII.]

[No. XV.] 24 George II. c. 40.—An Act for granting to his Majesty an additional Duty upon Spirituous Liquors, and upon Licences for retailing the same; and for repealing the Act of the Twentieth Year of his present Majesty's Reign, intituled, 'An Act for granting a Duty to his Majesty, to be paid by Distillers upon Licences to be taken out by them for retailing Spirituous Liquors;' and for the more effectually restraining the Retailing of distilled Spirituous Liquors; and for allowing a Drawback upon the Exportation of *British* made Spirits; and that the Parish of *St. Mary le Bon*, in the County of *Middlesex*, shall be under the Inspection of the Head Office of Excise.

P.

24 George II. c. 40.

No Licence to be granted for retailing within Gaols; Keeper, &c suffering Spirituous Liquors to be used there, &c.

XIII. AND be it further enacted by the authority aforesaid, That no licence shall be granted for the retailing of spirituous liquors within any gaol prison house of correction workhouse or house of entertainment for any parish poor, and that all licences granted or to be granted contrary to this provision shall be void and of no effect from and after the said first day of *July* one thousand seven hundred and fifty-one: and if any gaoler keeper or officer of any gaol prison or house of correction, or any governor master or officer of any workhouse or house for the entertainment of any parish poor, shall sell use lend or give away or

No. XV.
24 Geo. II.
c. 40.

knowingly permit or suffer any spirituous liquors or strong waters to be sold used lent or given away in any such gaols prisons or houses of correction or brought into the same; other than and except such spirituous liquors and strong waters as shall be prescribed or given by the prescription and direction of a regular physician surgeon or apothecary, and to be applied in pursuance of such prescription from the shop of some regular apothecary; every such gaoler keeper governor master or other officer shall for every such offence forfeit and lose the sum of one hundred pounds; one moiety thereof to his Majesty, and the other moiety thereof with full costs of suit to such person or persons as will sue for the same in any of his Majesty's courts of record at *Westminster* or in the Court of *Exchequer* in *Scotland*, by action of debt bill plaint or information; wherein no essoign privilege protection wager of law or more than one imparlance shall be granted or allowed; and in case any such gaoler or other officer being convicted thereof as aforesaid, shall again offend in like manner and be thereof a second time lawfully convicted, such second offence shall be deemed a forfeiture of his office.

to forfeit 100*l.*

for second Offence, forfeits his Office.

Justices, upon Information that Liquors are kept, &c. in such Houses, may enter and search, &c.

XIV. And be it further enacted by the authority aforesaid, That from and after the said first day of *July* one thousand seven hundred and fifty-one it shall and may be lawful for his Majesty's justices of the peace or any one of them, upon information upon oath that any such spirituous liquors or strong waters are kept and disposed of in any such gaol prison house of correction work-house or house of entertainment for parish poor in *Great Britain*, to enter and search or to authorise and empower any constable headborough or other peace officer of the parish where any such places are situated, by warrant under his hand and seal to enter and search any such gaol prison house of correction workhouse or house of entertainment for parish poor; and in case any such spirituous liquors or strong waters shall be found therein (except such as are directed to be used medicinally as aforesaid) it shall and may be lawful for such constable headborough or overseer of the poor to seize such spirituous liquors or strong waters, and to cause the same to be forthwith staved and destroyed.

Persons carrying, &c. Liquors into such Houses,

XV. And be it enacted by the authority aforesaid, That no person shall carry or bring or attempt or endeavour to carry or bring any distilled spirituous liquors (except to be used by the way of medicine as herein-before mentioned) into any gaol prison house of correction workhouse or house of entertainment for parish poor; and if any person or persons shall offend therein it shall be lawful for the gaoler keeper master or chief officer of such gaol prison house of correction workhouse or house of entertainment for parish poor or his or their servants to apprehend such person or persons and to carry him her or them before a justice of the peace for the county division city town corporate or liberty where such gaol prison house of correction workhouse or house of entertainment for parish poor is situate (who is hereby empowered to hear and determine such offence in a summary way, and to administer an oath to the witnesses); and if by the oath of one credible witness or otherwise he shall convict such person or persons of such offence he shall forthwith commit such offender or offenders to prison or to the house of correction, there to be kept in custody for any time not exceeding three months without bail or mainprize, unless such offenders respectively shall immediately pay down such sum or sums of money not exceeding twenty pounds and not less than ten pounds as the justice shall impose upon such offenders severally as their fines; to be paid one moiety to the informer and the other moiety to the use of the poor of such gaol prison house of correction workhouse or house of entertainment for parish poor.

to be taken before a Justice,

and on Conviction, to be committed, or pay, &c.

Copy of the three preceding Clauses to be kept hung up in Gaols, &c. under a Penalty of 40*s.*

XVI. And be it further enacted by the authority aforesaid, That every gaoler keeper master and chief officer of every gaol prison house of correction workhouse and house of entertainment for any parish poor, shall on or before the first day of *August* one thousand seven hundred and fifty-one procure one or more copy or copies of the three preceding clauses to be printed or fairly written and hung up in one of the most

No. XV.
24 Geo. II. c. 40.

public places of his gaol prison house of correction workhouse or house of entertainment for parish poor, and renew the same from time to time, so that it may be always kept fair and legible; on pain of forfeiting the sum of forty shillings for every wilful default, to be levied by warrant of any justice of the peace of the county division city town corporate or liberty where such gaol prison house of correction workhouse or house of entertainment for parish poor shall be situate, to be granted on conviction of such default in a summary way before such justice, by the oath of one or more credible witness or witness or witnesses (which oath such justice is hereby empowered to administer); and it shall and may be lawful for every justice of peace to enter into any gaol prison house of correction workhouse or house of entertainment for parish poor within the limits of his jurisdiction, and demand a sight of such copy so hung up as aforesaid; and if the same shall not be forthwith shewn to him so hung up in some public place fair and legible as aforesaid, such justice shall and may immediately convict such gaoler keeper master or officer of such default, and so from time to time as often as he shall think fit; one moiety of the said penalty to be paid to the informer and the other moiety (or the whole if there be no informer) to the use of the poor of such gaol prison house of correction workhouse or house of entertainment for parish poor.

Justice may demand a Sight thereof;

and if the same be not fair, may convict the Gaoler, &c.

[No. XVI.] 32 Geo. II. c. 28.—An Act for the Relief of Debtors with respect to the Imprisonment of their Persons; and to oblige Debtors who shall continue in Execution in Prison beyond a certain Time, and for Sums not exceeding what are mentioned in the Act, to make Discovery of, and deliver upon Oath, their Estates for their Creditors' Benefit.

[Inserted Part IV. title *Arrest and Imprisonment*, Cl. III. No. 29.]

[No. XVII.] 13 George III. c. 58.—An Act for providing Clergymen to officiate in Gaols within that Part of *Great Britain* called *England*.*

13 George III. c. 58.

'WHEREAS there is no provision made by law for the appointment of proper ministers to officiate in the several county gaols within that part of *Great Britain* called *England* and the principality of *Wales*: And whereas the appointment of ministers to such gaols with a proper salary for the due execution of their duty as clergymen would alleviate the distress of the persons under confinement and would greatly contribute to the purposes of morality and religion;' May it therefore please your Majesty that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That it shall and may be lawful to and for the justices of the peace or the major part of them assembled at the quarter sessions held for any county riding or division within that part of *Great Britain* called *England* and the principality of *Wales*, and they are hereby authorised and empowered to settle and ascertain how many clergymen shall by them be deemed necessary to be employed in performing religious duties according to the rites of the Church of *England* in the several gaols within their respective jurisdictions, and to settle and ascertain what duty shall be performed and what salary shall be paid to every such clergyman, not exceeding fifty pounds yearly and every year.

Justices to ascertain how many Clergymen are to be employed in Gaols, and what Salary.

II. And be it further enacted, That the treasurers of such counties ridings or divisions receiving a certificate signed by the chairman of such

Treasurers of Counties to pay.

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* See Stat. 55 George III. c. 49. post. No. 27.

No. XVII.
13 Geo. III. c. 58.

quarter sessions of the number of such clergymen, and the salary to be respectively paid to them shall pay out of the rates of such county riding or division the several sums in the said certificate mentioned; and the said several sums so paid in pursuance of this Act shall be allowed to the said treasurers by the justices before whom their accounts shall be passed.

Justices to nominate Clergymen for the above Purposes, &c.

III. And be it further enacted, That when the number of such clergymen and the salary to be respectively paid to them shall have been settled and ascertained by such justices, it shall and may be lawful to and for justices of the peace at the quarter sessions and they are hereby authorised and empowered to nominate and appoint in every county riding or division, where the justices shall have so settled and ascertained the number of the clergymen and the salary to be paid to them as before mentioned, so many clergymen to officiate and perform divine service according to the rites of the Church of *England*, in the several gaols within such county riding or division as shall have been so settled and ascertained by such justices; and in case any such clergyman or clergymen shall die or shall be thought unworthy by such justices at the quarter sessions to be continued in such office, then it shall and may be lawful for such justices at the quarter sessions to nominate and appoint from time to time, as occasion shall require, any other clergyman to officiate in the room of such clergyman so dying or so deemed to be unworthy to continue any longer in such office.

[No. XVIII.] 14 George III. c. 20.—An Act for the Relief of Prisoners charged with Felony, or other Crimes, who shall be acquitted or discharged by Proclamation, respecting the Payment of Fees to Gaolers, and giving a Recompence for such Fees, out of the County Rates.*

14 George III. c. 20.

'WHEREAS persons in custody for felonies or other crimes or on suspicion thereof or as accessaries thereto, though no bills of indictment are afterwards preferred or found against them or they are acquitted on their trials are nevertheless frequently detained for certain fees to the sheriffs gaolers or keepers of prisons in whose custody they happen to be, which is both oppressive and unjust:' For remedy whereof, may it please your Majesty that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That every prisoner who now is or hereafter shall be charged with any felony or other crime or as an accessary thereto before any court holding criminal jurisdiction within that part of *Great Britain* called *England* and *Wales*, against whom no bill of indictment shall be found by the grand jury or who on his or her trial shall be acquitted or who shall be discharged by proclamation for want of prosecution, shall be immediately set at large in open court without the payment of any fee or sum of money to the sheriff gaoler or keeper of the gaol or prison from whence he or she shall be so discharged and set at liberty for or in respect of such discharge.

Prisoners charged with Crimes in England for want of Prosecution to be set at large.

Fees abolished.

II. And be it further enacted by the authority aforesaid, That all such fees as have been usually paid or payable to the several sheriffs gaolers and keepers of prisons in *England* and *Wales* in any of the cases aforesaid shall absolutely cease, and the same are hereby abolished and determined; and from and after the passing of this Act no gaoler or keeper of any gaol or prison shall ask demand take or receive any sum or sums of money from any of the said prisoners as fees for upon or in respect of his or her discharge.

Treasurers of Counties, &c.

III. And be it further enacted by the authority aforesaid, That in lieu of such fees so abolished as aforesaid, the treasurers or other proper officers are not assessed at large, &c. shall pay to such Gaolers not exceeding 13s. 4d.

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* See Stat. 55 George III. c. 50. post. No. 28.

cers of the several counties or of such districts hundreds ridings or divisions of a county as are not usually assessed to the county at large, and of such cities towns corporate cinque ports liberties franchises and places as do not pay to the rates of the several counties in which they are respectively situated, shall on receiving a certificate signed by one or more judge or justice before whom such prisoner shall have been discharged as aforesaid (which certificate the judge or justice is hereby required to give), pay out of the rates of such county or of such district hundred riding or division or out of the publick stock of such city town corporate cinque port liberty franchise or place such sum as has been usually paid upon that occasion, not exceeding thirteen shillings and four pence for every prisoner so discharged as aforesaid to the sheriff gaoler or keeper of the prison whence the said prisoner shall have been discharged as aforesaid: which several sums so paid in pursuance of this Act shall be respectively allowed to the said treasurers and officers by the justices before whom their accounts shall be passed.

No. XVIII. 14 Geo. III. c. 20.

[No. XIX.] 14 George III. c. 59.—An Act for preserving the Health of Prisoners in Gaol, and preventing the Gaol Distemper.

14 George III. c. 59.

'WHEREAS the malignant fever, that is commonly called the *Gaol* 'Distemper, is found to be owing to a want of cleanliness and fresh 'air in the several gaols in *England* and *Wales*, and the fatal consequences of that disorder, of which there has been of late too much experience, might be prevented if justices of the peace were duly authorised to provide such accommodation in gaols as may be necessary to 'answer this salutary purpose:' May it therefore please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That the several justices of the peace in that part of *Great Britain* called *England* and *Wales* within their several jurisdictions in their quarter sessions assembled are hereby authorised and required to order the walls and ceilings of the several cells and wards, both of the debtors and the felons and also of any other rooms used by the prisoners in their respective gaols and prisons where felons are usually confined, to be scraped and whitewashed once in the year at least; to be regularly washed and kept clean and constantly supplied with fresh air by means of hand ventilators or otherwise; to order two rooms in each gaol or prison, one for the men and the other for the women, to be set apart for the sick prisoners, directing them to be removed into such rooms as soon as they shall be seized with any disorder and kept separate from those who shall be in health; to order a warm and cold bath or commodious bathing tubs to be provided in each gaol or prison and to direct the prisoners to be washed in such warm or cold bathing tubs according to the condition in which they shall be at the time before they are suffered to go out of such gaols or prisons upon any occasion whatever; to order this Act to be painted in large and legible characters upon a board and hung up in some conspicuous part of each of the said gaols and prisons; and to appoint an experienced surgeon or apothecary at a stated salary to attend each gaol or prison respectively, who shall and he is hereby directed to report to the said justices by whom he is appointed at each quarter sessions a state of the health of the prisoners under his care or superintendence.

Powers of the Justices at Sessions,

II. And be it further enacted by the authority aforesaid, That the said justices of the peace in their said quarter sessions assembled are hereby authorised to direct the several courts of justice within their respective jurisdictions to be properly ventilated; to order cloaths to be provided for the prisoners when they see occasion; to prevent the prisoners from being kept under ground whenever they can do it conveniently; and to make such other orders, from time to time, for restoring or preserving the health of prisoners as they shall think necessary.

who may issue Orders as they shall think fit.

No. XIX.
14 Geo. III. c. 59.

Expences how to be defrayed.

III. And be it further enacted by the authority aforesaid, That the expences attending the execution of the orders of the said justices made in pursuance of this Act, so far as the same shall respect county gaols and prisons and courts of justice belonging to counties, shall be borne and defrayed at all times out of the respective county rates; and so far as the same shall respect the gaols and prisons and courts of justice of particular cities towns corporate cinque ports liberties franchises or places that do not contribute to the rates of the counties in which they are respectively situated, such expences shall be defrayed out of the publick stock or rates of such cities towns corporate cinque ports liberties franchises or places having such exclusive jurisdictions to which such gaols or prisons or courts of justice shall respectively belong: And if any gaoler or keeper of any prison shall at any time neglect or disobey the orders of such justices made in pursuance of this Act, he may be proceeded against in a summary way by complaint made to the judges of assize or to the justices in their quarter sessions; and if he be found guilty of such neglect or disobedience, he shall pay such fine as the judges of assize or justices shall impose and shall be committed in case of non-payment.

Gaolers disobeying Orders to be proceeded against in a summary Way.

[No. XX.] 22 Geo. III. c. 64.—An Act for the amending and rendering more effectual the Laws in being relative to Houses of Correction.

22 George III. c. 64.

Explained and amended by 24 Geo. 3. Sess. 2. c. 55.

'WHEREAS by an Act made in the seventh year of the reign of his 'late Majesty King *James* the First for the due execution of divers 'laws and statutes theretofore made against rogues vagabonds and sturdy 'beggars and other lewd and idle persons, houses of correction are di-'rected to be provided in every county and furnished with all necessary 'mills and other implements to set the rogues vagabonds and sturdy beg-'gars and other idle and disorderly persons to work at the expence of 'every such county by order of the justices of the peace at their general 'quarter sessions, who are also to appoint a governor or master of every 'such house of correction with power to set the said persons on work:

17 Geo. 2. c. 5.

'And whereas by an Act made in the seventeenth year of the reign of 'his late Majesty King *George* the Second, "to amend and make more 'effectual the Laws relating to Rogues Vagabonds and other idle and dis-'orderly Persons and to the Houses of Correction," the justices of the 'peace are authorised, upon presentment by the grand jury at the assizes 'that the house of correction is not sufficient or convenient, by order at 'their general quarter sessions of the peace to enlarge or buy or hire a 'more convenient house or to purchase land for such buildings and for a 'convenient outlet and to erect such houses and to raise upon the county 'such sums of money as shall be necessary for those purposes: And 'whereas by many other Acts of Parliament persons are directed to be 'sent by warrants from justices of the peace to the houses of correction, 'there to be kept to hard labour for a limited time: And whereas in 'many counties the said houses of correction are insufficient in number 'or deficient in building and the apartments in them are very ill accom-'modated to the purposes for which they were intended; by means 'whereof and from a want of due order employment and discipline in 'such houses of correction, the persons sent thither for correction and 'reformation frequently grow more dissolute and abandoned during their 'continuance in such houses:' For remedy whereof be it enacted by the 'King's most excellent Majesty, by and with the advice and consent of 'the Lords Spiritual and Temporal and Commons in this present Parlia-'ment assembled, and by the authority of the same, That the justices of 'the peace in every county riding division city liberty and precinct within '*England* and *Wales* at their respective quarter sessions of the peace to 'be held next after *Midsummer* from the time of passing this Act shall and they are hereby required to nominate one or more justice or justices of the peace within their respective jurisdictions divisions or districts whom they shall think most proper to examine and inspect the

Justices, at their Quarter-Sessions, to nominate a Justice in each District to examine the Houses of Correction;

No XX.
22 Geo. III. c. 64.

several houses of correction within their respective jurisdictions; and the justice or justices so to be nominated is and are hereby required carefully and diligently to inspect the same with all convenient speed, and to report his or their opinion to the justices of their respective jurisdictions at the *Michaelmas* quarter sessions then next following as to the state and condition thereof and the increase of number, or additions or alterations which they may judge necessary to make them more convenient and useful, having regard to the classing of the several persons who shall be kept there according to the nature of their crimes and punishments, and to the providing proper places for the employment of such persons who are committed to hard labour, and to the keeping every part of such prisons clean and wholesome; and the said justice or justices so to be nominated is and are hereby required to employ proper and skilful persons to make plans and estimates of new buildings or the additions or alterations which he or they shall think necessary in the present buildings to make them answer the several purposes of this Act; which plans together with the report of the said justice or justices shall be laid before the Court at the said *Michaelmas* quarter sessions, or if from any difficulties or accidents such report shall not happen to be made at that sessions, then and in that case the same shall be made at or before the *Epiphany* quarter sessions then next following; which court is hereby authorised and required to consider the same, and if they approve such plans they may adjourn the quarter sessions to a further day for receiving proposals from persons inclined to undertake such work, of which due notice shall be published, and then to contract with such persons whom they shall think most proper to do the same, or if they disapprove such plans or estimates to direct such others to be made as they shall think fit, and adjourn their quarter sessions to some further day to receive such new plans and estimates, and also proposals from persons inclined to undertake the work; and the justices, in settling and adjusting such plans, are hereby required to provide separate apartments for all persons committed upon charges of felony or convicted of any theft or larceny and committed to the house of correction for punishment by hard labour under or by virtue of the laws in being, in order to prevent any communication between them and the other prisoners; and also proper apartments, covered or open, as shall be found most convenient for employing the several persons who are to be kept to hard labour; and they are also to provide separate apartments in each division of the said house of correction for the women who shall be committed thither. (1.)

who are to make a Report, &c. to the next Michaelmas Quarter Sessions.

Separate Apartments to be provided for Persons committed for Felony, &c.

II. And be it enacted, That the justices of the peace at their general quarter sessions shall and they are hereby empowered from time to time, upon any report to them as aforesaid, to make such order thereupon as to them shall seem just and the nature of the case may require.

Justices to make Orders, &c.

III. And be it further enacted, That as soon as such buildings shall be made or altered and completed according to the directions aforesaid, the justices of the peace at their general quarter sessions shall order them to be fitted up and furnished in such manner as to them shall seem fit; and shall also provide such mills looms utensils and implements as they shall judge proper for employing the several persons who shall be committed to such houses of correction for hard labour: and the said justices shall at every general quarter sessions of the peace call upon the keeper of such house of correction to produce to them in writing a list of the several persons then in custody, with a description of the offence or offences and the time for which every such person was committed, distinguishing particularly those who are directed by the warrant of commitment to be kept to hard labour, and also distinguishing the age and sex of every such person committed to hard labour, and in what trade manufacture or business every such person hath been employed and what he or she hath been most

Buildings to be furnished, and provided with Mills, &c.

Keepers of Houses of Correction to deliver to the Quarter Sessions Lists, &c.

(1.) All the Prisons in the Kingdom are the King's Prisons The House of Correction for the County of Middlesex, built by virtue of Stat. 26 Geo. 3. c. 55. and adapted to the separate reception of Felons pursuant to Stat. 22 Geo. 3. c. 64. and other Acts, is a legal Prison for the safe Custody of Persons under a charge of High Treason. Exparte Evans, 8 T. R. 172.

No. XX.
22 Geo. III. c. 64.

accustomed to and is best qualified for, and how each person has behaved during his or her confinement according to the best of his information and observation; which list the keeper of every such house of correction is hereby directed to make out and deliver to the chairman of such court of quarter sessions as soon as such court shall be assembled; and the court shall before the end of that session give such directions for the future employment of the said several prisoners as to them shall seem meet; and the justices shall at their general quarter session of the peace from time to time order and direct a sufficient quantity of materials for manufactures to be provided for the use and employment of the several persons who shall be committed to such houses of correction for hard labour of such kinds as they in their discretion shall think most proper; and shall employ some fit person to be the keeper of such house of correction, and may appoint a temporary assistant or assistants to instruct such prisoners in any business or branch of manufacture which the justices shall think most proper to be set on foot and undertaken there.

Rules and Orders, &c.

IV. And be it further enacted, That the rules orders and regulations specified and contained in the schedule hereunto annexed for the better rule and government of the persons to be committed to the said houses of correction shall be duly observed and enforced at every such house of correction, subject nevertheless to such additions as shall from time to time be made by the justices of the peace for the county riding division city town or place wherein such house of correction shall be situate at their quarter sessions which shall be held next after *Midsummer* or *Michaelmas*, and which they are hereby authorised to make at their discretion; provided that such addition shall not be contradictory to the rules orders and regulations established by this Act: and for the purpose of having them more generally known and more strictly attended to the governors or keepers of every such house of correction shall and they are hereby required to cause the same to be printed in plain legible characters and fixed up in some conspicuous part of every such prison.

Expences of maintaining the Prisoners in the Houses of Correction, &c.

'V. And in order to defray the expences of the several matters and 'things herein-before directed to be done respecting houses of correction 'and the support and maintenance of prisoners confined there and other 'expences necessary to the execution of this Act not herein particularly 'provided for,' Be it further enacted, That the justices of the peace at their general quarter sessions may and shall cause such sums of money as shall be necessary for all or any of those purposes to be raised in the same manner as rates are directed to be raised by an Act made in the twelfth year of the reign of his late Majesty King *George* the Second, intituled "An Act for the more easy assessing collecting and levying of county rates."

Any Justice may present, &c.

VI. And be it further enacted, That from and after the passing of this Act the want of houses of correction or the insufficiency thereof may be presented at the court of quarter sessions by a justice of the peace acting for such division or district on his own view or knowledge thereof, as well as by the grand jury pursuant to the directions of the said Act of the seventeenth year of the reign of his late Majesty; which presentment by the justice shall be proceeded upon in the same manner as if it had been made by the grand jury.

All Prisoners in such Houses to be employed by the Governor, &c.

VII. And be it further enacted, That it shall and may be lawful for the governor or keeper of every house of correction and he is hereby directed to employ all such persons as shall be prisoners therein, and kept and maintained at the expence of the county division or district wherein such house of correction is situate, in some work or labour which is not severe, although such prisoner was not by the warrant of his commitment ordered to be kept to labour; and every such governor or keeper shall enter a separate account of the work done by every person under that description, and shall account with and pay to him or her one half of the nett profits which he or she shall have earned at the time of his or her discharge and not before.

No Governor, or Officer under him to sell Wine, &c.

VIII. And be it further enacted, That no person or persons who shall

be governor or keeper of any house of correction or who shall have any office or employment as assistant or otherwise under such governor or keeper of such house of correction, shall sell or be capable of being licensed to sell, or have any benefit or advantage whatsoever directly or indirectly from the sale of any wine ale beer spirituous or other liquors, or any other article matter or thing used in such house of correction or by any person or persons confined therein during the time of such employment; and every person offending therein shall on complaint made upon oath and conviction for the said offence before a magistrate having jurisdiction there forfeit the sum of ten pounds for every such offence, and shall be dismissed from his employment as governor or keeper or as assistant in such house of correction by order of the justices at their next general quarter sessions of the peace on proof being made upon oath before them of the said offence; and that no wine ale spirituous or other liquors shall be brought into the house of correction to be drank there unless for a medical purpose by a written direction under the hand of the apothecary or surgeon usually attending such house of correction; and that the directions given by the said last-mentioned Act for the inspection and controul by the justices over the master or keeper of every such house of correction shall be strictly adhered to and enforced and every such governor and keeper punished for his neglect of duty or misbehaviour according to the directions of the said Act.

Justices to fix a Salary for the Governor.

IX. And be it further enacted, That the justices of the peace in their respective quarter sessions shall fix a reasonable salary for the governor or keeper of the house of correction, and may moreover allow him some proportion of the profits earned by the prisoners.

No Woman to be Keeper of House of Correction.

X. And be it further enacted, That from and after the passing of this Act no woman shall be capable of being appointed keeper of any house of correction.

Governors empowered to handcuff.

XI. And be it further enacted, That the governor of every house of correction shall have power to put handcuffs or fetters upon any prisoner who shall behave in a refractory manner or shew a disposition to break out of prison; but such governor shall give notice thereof to one of the visiting justices within forty-eight hours after the prisoner shall be so fettered; and he shall not continue such fettering longer than six days, without obtaining an order in writing from one of the visiting justices.

Justices may appoint a Clergyman.

XII. And be it further enacted, That the justices of the peace at their general quarter sessions may if they think fit, appoint a minister of the church of *England* residing in or near the place where every such house of correction shall be situate to perform divine service there every *Sunday*, and may appoint such salary for his trouble as they shall think fit, not exceeding twenty pounds *per annum*, to be paid by the treasurer of the county riding division or place where such house shall be situate, out of the county rates or other publick money to be collected therein; but such salary to be diminished at any future quarter sessions if the justices shall think fit.

Penalties.

XIII. And be it further enacted, That all penalties inflicted by this Act shall in default of payment after due summons and demand made be levied by distress and sale of the offender's goods and chattels by virtue of a warrant under the hand and seal of any justice of the peace having jurisdiction where such offender shall dwell, rendering to the said offender the overplus (if any) after the charges of such distress and sale shall be deducted: and in case sufficient distress shall not be found, then and in every such case it shall and may be lawful to and for any such justice of the peace to commit such offender to the common gaol or house of correction, there to remain without bail or mainprize for any space not exceeding six calendar months nor less than one calendar month; and that every such penalty and forfeiture shall be paid to the treasurer of the county riding division or district where such house of correction shall be situate in aid of the common stock, out of which the expences attending the execution of the several purposes of this Act are to be paid as aforesaid.

No. XX.
22 Geo. III. c. 64.

XIV. And be it further enacted, That this Act shall be deemed adjudged and taken to be a publick Act; and shall be judicially taken notice of as such by all judges justices and others without the same being specially pleaded.*

* Publick Act.

RULES, Orders, and Regulations, to be observed and enforced at every House of Correction provided and established, or to be provided and established, under the Authority of the Acts of the Seventh Year of the Reign of his late Majesty King *James* the First, the Seventeenth of King *George* the Second, and the Twenty-second of King *George* the Third.

I. THAT the several persons who shall be committed to the house of correction to be kept to hard labour shall be employed (unless prevented by ill health) every day during their confinement (except *Sundays Christmas-day* and *Good-Friday*), for so many hours as the day-light in the different seasons of the year will admit, not exceeding twelve hours, being allowed thereout to rest half an hour at breakfast, an hour at dinner, and half an hour at supper, and that the intervals shall be noticed by the ringing of a bell.

II. That the governor of each house of correction shall adapt the various employments which shall be directed by the justices at their quarter sessions to each person in such manner as shall be best suited to his or her strength and ability, regard being had to age and sex.

III. That the males and females shall be employed and shall also eat and be lodged in separate apartments and shall have no intercourse or communication with each other.

IV. That every person so committed shall be sustained with bread and any coarse but wholesome food and water; but persons under the care of the physician surgeon or apothecary shall be sustained with such food and liquor as he shall direct.

V. That the governor and such other persons (if any) as shall be employed by the justices to assist the governor shall be very watchful and attentive in seeing that the persons so committed are constantly employed during the hours of work; and if any person shall be found remiss or negligent in performing what is required to be done by such person to the best of his or her power and ability, or shall wilfully waste spoil or damage the goods committed to his or her care, the governor shall punish every such person in the manner hereafter directed.

VI. That if any person so committed shall refuse to obey the orders given by the governor, or shall be guilty of profane cursing or swearing; or of any indecent behaviour or expression; or of any assault quarrel or abusive words to or with any other person; he or she shall be punished for the same in the manner hereafter directed.

VII. That the governor shall have power to punish the several offenders for the offences herein-before described by closer confinement, and shall enter in a book to be kept by him for the inspection of the justices at the quarter sessions and the visiting justice or justices the name of every person who shall be so punished by him, expressing the offence and the duration of the punishment inflicted.

[No. XXII.] 24 George III. Sess. 2. c. 54.—An Act to explain and amend an Act, made in the Eleventh and Twelfth Years of the Reign of King *William* the Third, intituled, "An Act to enable Justices of Peace to build and repair Gaols in their respective Counties;" and for other Purposes therein mentioned.

24 G. III. c. 54.
11 & 12 Gul. 3. c. 19.

'WHEREAS by an Act made in the eleventh and twelfth years of the reign of his late Majesty King *William* the Third, intituled "An

No. XXII.
24 Geo. III. sess. 2. c. 54.

'Act to enable Justices of Peace to build and repair gaols in their respective Counties," it is enacted, That it shall and may be lawful for the justices of the peace or the greater number of them within the limits of their commissions, upon presentment made by the grand jury or grand juries at the assizes great sessions and general gaol delivery of the insufficiency or inconveniency of their gaol or prison, to conclude and agree upon such sum or sums of money as upon examination of able and sufficient workmen shall be thought necessary for the building finishing or repairing a publick gaol or gaols belonging to the county whereof they are justices of the peace, and to charge such sum or sums of money upon the several hundreds or other divisions of the county: And whereas it has been found difficult to carry the said Act into execution; whereby the gaols in many counties ridings divisions cities towns liberties or precincts have continued in a very ruinous state for a considerable time, and have become prejudicial to the health of the prisoners and insufficient for the safe custody of them:' For remedy whereof be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the first day of *September* one thousand seven hundred and eighty-four it shall and may be lawful for the justices of the peace in and for every county riding division city town liberty or precinct within *England* and *Wales* at their respective general quarter sessions of the peace or the major part of the said justices then and there assembled, such major part not being in number less than seven, upon presentment made by the grand jury or grand juries at the assizes great sessions or general gaol delivery held for every such county riding division city town liberty or precinct of the insufficiency inconveniency or want of repair of any gaol belonging to such county riding division city town liberty or precinct, to contract and agree with any person or persons for the building rebuilding finishing repairing or enlarging such gaol and the yards courts and outlets thereof, and adding such other buildings and making such conveniencies as shall be adjudged requisite by the said justices at a certain sum payment or allowance for the same; or for erecting any new gaol upon any site or ground within any distance not exceeding two miles from the site of the old gaol, and in that case for selling the old gaol and the site thereof and land thereto belonging or any part thereof respectively and also the materials of the old gaol for the best price that can be procured for the same; such contractor or contractors giving sufficient security for the due performance of their contracts or agreements to the respective clerks of the peace for such county riding division city town liberty or precinct aforesaid.

Justices in Sessions, upon Presentment by the Grand Jury, may order County Gaols to be rebuilt or enlarged.

II. And be it further enacted by the authority aforesaid, That the said justices of the peace, after such presentment made as aforesaid, shall at the next general quarter sessions to be holden for such county riding division city town liberty or precinct give notice three times at least in some public paper or papers circulating in or near such county riding division city town liberty or precinct of such presentment having been made, and of their intention to take the same into consideration at the next ensuing or some following general quarter sessions; and after such consideration shall have been had the said justices shall give notice in such publick paper or papers as aforesaid of their intention of contracting with any person or persons for building rebuilding finishing repairing or enlarging such gaol as aforesaid, and of every other matter or thing intended to be done in consequence of such presentment; and such contract or contracts shall be made and entered into at the most reasonable rates and with the most responsible persons; and every such contractor shall give sufficient security for the due performance of his contract to the clerk of the peace for such county riding division city town liberty or precinct; and all contracts when made and all orders relating thereto shall be entered in a book to be kept by the clerk of the peace, who is hereby required to keep the same among the records of such county riding division city town liberty or precinct, to be inspected at all season-

Justices to give publick Notice previous to their taking Presentments into Consideration, &c.

Contracts to be entered in a Book.

No. XXII.
24 Geo. III. sess. 2. c. 54.

able times by any of the said justices or by any other person or persons contributing to the rates of such county riding division city town liberty or precinct without fee or reward.

Justices may build a new Gaol in any Part of the County, &c. if, &c.

III. Provided always and be it further enacted, That it shall and may be lawful for the said justices of the peace to build any new gaol in any part of the county riding division city town liberty or precinct, in case (in the presentment made of the inconvenience of such old gaol) it be expressly presented that the place wherein the old gaol is situate is improper, and that the said gaol ought to be removed to some other part of the county riding division city town liberty or precinct; and in case three-fourths in number of the justices assembled at two successive quarter sessions (notice having been given three times at least in some publick newspaper circulating as aforesaid of the time of the holding and of the place to which such gaol is intended to be removed) shall approve of such removal but not otherwise.

New Gaols to be divided into several distinct Apartments.

IV. And be it further enacted, That the said justices of the peace as well in the choice of the ground as in determining upon the plans for building rebuilding enlarging or altering such gaols as aforesaid, and the yards courts and outlets thereof, shall as far as conveniently may be pursue such measures and adopt such plans as shall provide separate and distinct places of confinement and dry and airy cells in which the several prisoners of the following descriptions respectively may be confined as well by day as by night; namely, prisoners convicted of felony; prisoners committed on charge or suspicion of felony; prisoners committed for or adjudged to be guilty of misdemeanors only; and debtors; the males of each class to be separated from the females; and a separate place of confinement to be provided for such prisoners as are intended to be examined as witnesses on behalf of any prosecution of any indictment for felony; and also separate infirmaries or sick wards for the men and the women; and also a chapel and convenient warm and cold baths or bathing tubs for the use of the prisoners in such manner as is directed by an Act made in the fourteenth year of the reign of his present Majesty, intituled, "An Act for preserving the health of prisoners in gaol and preventing the gaol distemper;" and care to be taken that the prisoners shall not be kept in any apartments under ground.

14 Geo. 3. c. 59.

Justices may purchase Lands, Houses, &c.

V. 'And whereas the gaols within and belonging to several counties 'ridings divisions cities towns liberties and precincts and the yards 'courts and outlets thereof are very small close and confined, and such 'gaols are thereby rendered very unhealthy from the impossibility of 'accommodating the unhappy persons confined therein with a sufficient 'supply of fresh air, water and other necessary conveniences;' Be it enacted by the authority aforesaid, That the said justices (after presentment made as aforesaid) shall have full power and authority to purchase any houses buildings lands tenements hereditaments ways waters and watercourses for the purpose of building enlarging and accommodating such gaols; and to direct the houses buildings lands tenements hereditaments easements and privileges which shall have been so purchased as aforesaid to be conveyed to such person or persons as the said justices shall think fit in trust and for the uses and purposes aforesaid; and such houses buildings lands tenements and hereditaments when inclosed and added thereto shall be deemed and taken to be a part of such gaols and to be part of such county riding division city town liberty or precinct where such gaol is situated to all intents and purposes whatsoever.

Prisoners may be removed for the building a new Gaol, or repairing the old one.

VI. And be it further enacted by the authority aforesaid, That whenever the said justices of the peace in their said general quarter sessions assembled shall deem it necessary that the felons debtors and other prisoners shall be removed either for the purpose of repairing their old gaol or using the materials thereof in building a new gaol, on giving sufficient notice to the sheriff of such county riding division city town liberty or precinct, it shall and may be lawful for the said sheriff to remove such felons debtors and other prisoners to the house or houses of correction belonging to such county riding division city town liberty or precinct, or such other place or places of confinement as the said justices so assem-

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bled as aforesaid with the consent of the said sheriff shall approve of, and to confine them there during the time such new gaol shall be building or old gaol repairing or enlarging; and that when such gaol shall be made fit for the reception and safe keeping of such felons debtors and other prisoners, then it shall be lawful for the said sheriff to remove thither all such felons debtors and other prisoners as shall then be in his custody, and the expence of such removal or removals to and from such place or places of confinement and the expence which may be incurred by the said sheriff on account of the safe custody of such prisoners in such house of correction or other place or places shall be allowed and paid by such county riding division city town liberty or precinct, and such removal or removals as aforesaid shall not be deemed or taken to be an escape: Provided that nothing herein contained shall extend or be construed to extend to discharge the sheriff or gaoler from being answerable for the actual escape of any prisoner in his custody

Such Removal not to be deemed an Escape.

VII And be it further enacted by the authority aforesaid, That the justices of the peace in their respective general quarter sessions assembled are hereby authorised to nominate and appoint one or more justice or justices of the peace of and for their respective counties ridings divisions cities towns liberties or precincts to visit and superintend the gaols thereunto belonging, and from time to time to make a report of the state thereof to the court of the said general quarter sessions, which court is hereby authorised upon such report to order and direct any sum or sums of money not exceeding the sum of two hundred pounds in any one year to be laid out upon the repair or repairs of such gaols as they shall deem requisite (notwithstanding such want of repair shall not have been presented by the grand jury or grand juries at the assizes great sessions or general gaol delivery for such county riding division city town liberty or precinct as aforesaid,) and if it shall at any time happen that the said gaols or any of them by any breach being made in the same from attempts of prisoners to escape or other casualties or accidents shall be rendered unsafe for the custody of the prisoners therein confined, between the several times of holding the general quarter sessions, it shall and may be lawful for any one or more justice or justices for such county riding division city town liberty or precinct to order the damages occasioned thereby to be immediately so far repaired as may be necessary and sufficient for the safe custody of such prisoners, and such justice or justices shall report the same to the next court of general quarter sessions to be holden for such county riding division city town liberty or precinct, which court is hereby authorised to order the payment of such sum or sums of money as shall have been necessarily expended in such reparation or reparations as aforesaid

Quarter Sessions may appoint a Justice to inspect the County Gaols, &c.

Accidental Damages may be repaired by order of a Justice.

VIII 'And in order to defray the expences of building rebuilding 'finishing repairing or enlarging such gaols and the yards courts and 'outlets thereto belonging as aforesaid, and of purchasing houses buildings lands tenements hereditaments easements or privileges, and other 'the expences necessary for the execution of this Act,' Be it further enacted by the authority aforesaid, That in all such cases where such gaols are repaired at the expence of the county riding division city town liberty or precinct to which the same belong, the justices of the peace at their general quarter sessions may and shall cause such sums of money as shall be necessary for all or any of the purposes aforesaid to be raised in the same manner as rates are directed to be raised by two Acts made in the twelfth and thirteenth years of the reign of his late Majesty King *George* the Second, "for the more easy assessing collecting and levying of county rates."

Expences of rebuilding or repairing County Gaols how to be defrayed.

12 Geo. 2. c 29.
13 Geo. 2. c. 18.

IX. 'And whereas the expences of building rebuilding enlarging or 'removing and fitting up gaols may in some cases become very burthen'some on the occupiers of land and other the contributors to the county 'rates, in case the said expences should be raised in the manner 'herein-before mentioned;' Be it therefore enacted, That when it shall appear that the amount of any estimate approved by the justices for the building, enlarging, &c. shall be very high, the Justices in Session may mortgage the Rates, &c.

When the Amount of any Estimate for

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building rebuilding enlarging or removing and fitting up any gaol or gaols under the powers of this Act shall exceed one half of the amount of the ordinary annual assessment for the county rate for any county riding division city town liberty or precinct (such ordinary assessment to be taken on a mean proportion of the said rate for the last five years preceding) that then and in such case it shall and may be lawful for the justices of the peace within the respective limits of their commissions so assembled in their quarter sessions as aforesaid, from time to time to borrow and take up on mortgage of the rates herein mentioned, by instruments in the form contained in the schedule hereunto annexed, or to that or the like effect, any sums not less than fifty pounds nor exceeding one hundred pounds each at legal or lower interest, as to them or the major part of them (such major part not being less than five) shall appear necessary and expedient for the purposes aforesaid; and to secure all and every such sum and sums of money so borrowed upon the credit of the rates to be raised upon such county riding division city town liberty and precinct respectively; and the said justices so assembled as aforesaid are hereby authorised to treat and agree with any person or persons for the loan of any such sum or sums of money, and by their order to confirm and establish every such agreement as aforesaid; and every such agreement so established by such order and signed by the chairman and two or more justices present at the time of making such order shall be and the same is hereby declared to be effectual for securing to the person or persons so advancing any sum or sums of money his her or their executors administrators and assigns all and every such sum or sums of money with interest for the same on such terms as in and by such agreement or agreements respectively shall be for that purpose stipulated; and copies or extracts of all such agreements or securities shall be kept with the clerk of the peace or other proper officer having the custody of the records of the quarter sessions of such county riding division city town liberty or precinct respectively; and all and every person and persons to whom any such security or securities shall be made or who shall be entitled to the money thereby secured is and are hereby empowered (by indorsing his her or their name or names on the back of such security or securities) to transfer and assign the same and his her or their right to the principal money and interest thereby secured unto any person or persons; and every such assignee may in like manner transfer the same again, and so *toties quoties;* and the person or persons to whom such security or securities or any such assignment thereof shall be made, and his or their respective executors administrators and assigns, shall be creditors upon the said rates in an equal degree one with another, and shall not have any preference with respect to the priority of any monies so advanced.

Agreements by order of the Justices signed by the Chairman, &c., to be an effectual Security.

Securities may be transferred.

To what Extent the Justices may charge the County Rates.

X. And be it further enacted, That the said justices are hereby authorised and required not only to charge the rates to be raised upon such county riding division city town liberty or precinct with the interest of the money so borrowed on such securities but also with the payment of a further sum equal at least to the sum so charged for the interest of such securities; which said sums shall be assessed on such county riding division city town liberty or precinct in such manner as county rates are directed to be assessed by the laws now in being, and paid and applied under the direction of the said justices in discharge of the interest and of so many of the principal sums on the said securities as such money will extend to discharge in each year, until the whole of the money for which such securities shall be made and the interest thereof shall be fully paid and discharged; and the said justices are required to fix one or more day or days in each year on which such payment shall be made, and shall make orders for assessments in due time so as to provide for the regular payment thereof; and they are hereby required to appoint a proper person to keep an exact and regular account of all the receipts and payments under the authority of this Act in a book or books separate and apart from all other accounts, and the same to adjust and settle in such manner that it may easily be seen what interest is growing due,

A regular Account to be entered in a Book of all Receipts and Payments under this Act; which, &c.

and what principal money has been discharged, and what remains due; and the said book or books so adjusted and settled to deliver into Court at every general or quarter sessions to be held for any such county riding division city town liberty or precinct; and the said justices are required at every such sessions carefully to inspect all such accounts, and make orders for carrying the several purposes of this Act into execution, in such manner as to them shall seem meet; and if at any time it shall appear to the said justices that the person so appointed has neglected the said order, and has not duly and without delay applied the money in his hands to the purposes hereby directed, such person shall forfeit double the amount of the money which shall not have been applied to the purposes of this Act; and the said justices so assembled in session as aforesaid shall direct in what order such securities shall be discharged by drawing lots or otherwise as they shall think fit, first discharging all such securities which shall bear the highest interest.

Money borrowed under this Act to be paid within a limited Time.

XI. Provided always and be it further enacted, That the justices of the peace in their respective quarter sessions shall and are hereby required to make provisions by means of the rates (which they are hereby authorised to make) and by their orders and directions (which they are hereby authorised to give) in such manner that the whole money to be borrowed under the authority of this Act shall be fully paid and discharged within a time to be limited, not exceeding fourteen years from the time of borrowing the same.

Bodies Politick, &c. may sell and convey Lands, &c.

XII. And be it further enacted, That it shall and may be lawful for the King's most excellent Majesty his heirs and successors, and for all bodies politick and corporate, and also for all guardians committees husbands trustees and attornies of any person or persons being infants lunaticks idiots under coverture or any other disability, and also for all other persons who are or shall be seised possessed of or interested in any houses buildings lands tenements hereditaments easements or privileges which shall be deemed necessary for the purposes of this Act, to contract or agree for and to sell convey and assure such houses buildings lands tenements hereditaments easements and privileges unto such person or persons as shall be named by the justices in trust and for the purpose of erecting new gaols or enlarging the old gaols and the yards courts and outlets thereunto belonging; and all such contracts agreements sales conveyances and assurances shall be valid and effectual in law, to all intents and purposes whatsoever; any law statute usage or custom to the contrary notwithstanding.

Purchase-money exceeding 100*L.* to be laid out in Purchase of Lands, &c. subject to the same Uses, &c.

XIII. And be it further enacted, That all sums of money which shall be agreed to be paid to any corporation guardian committee husband trustee or attorney for or on behalf of any infants idiots lunaticks femes covert or cestuique trust, or to any other person or persons whose houses buildings lands tenements hereditaments easements and privileges shall be limited in strict settlement for the purchase of any such lands tenements and hereditaments, shall in case such sums of money shall exceed the sum of one hundred pounds be laid out by such corporations guardians committees husbands trustees or attornies or any person or persons seised of such houses buildings lands tenements hereditaments easements or privileges so limited in strict settlement as soon as conveniently may be in the purchase of lands tenements and hereditaments in fee simple, to be conveyed to or to the use of such corporations guardians committees husbands trustees or attornies, and to and for such person or persons and for such estate and estates, and to for and upon and subject to such uses limitations remainders and contingencies as the houses buildings lands tenements hereditaments easements or privileges for and in respect whereof such purchase money shall be paid as aforesaid shall be limited settled and assured at the time such purchase or contract shall be made in manner aforesaid, or such as shall then be capable of taking effect; the charges of such conveyances and settlements to be paid in the same manner as the other expences relating to the gaol; and in the mean time and till such purchase or purchases shall be made, such money, whether

And until such Purchases are made, the Money to be laid out in Government Securities.

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the same shall or shall not exceed the sum of one hundred pounds, shall be laid out by such corporations or other persons for the time being interested therein in some government securities in the names of two persons, one to be nominated by the party or parties for the time being interested therein, and the other by the justices aforesaid; and the interest arising from such securities shall be paid to such person or persons respectively as would have been entitled to the rents and profits of such lands tenements hereditaments easements and privileges in case the same had not been sold, or would for the time being be entitled to the rents and profits of such lands tenements and hereditaments so to be purchased in case the same were purchased and settled as aforesaid.

If the Parties refuse to treat, &c.,

XIV. And be it further enacted, That if any such corporations guardians committees husbands trustees and attornies or any person or persons for the time being interested in any such houses buildings lands tenements hereditaments easements or privileges, which shall be deemed necessary for the purposes of building or enlarging any such gaol and other the purposes of this Act, upon notice in writing to him her or them given or left at the house or houses or other place or places of abode of such person or persons or of the principal officer or officers of any such corporation, shall for the space of twenty-one days after such notice so given or left as aforesaid neglect or refuse to treat or shall refuse to accept such price as shall be offered by the justices or their agent, or shall otherwise not agree for the sale of such houses buildings lands tenements hereditaments easements or privileges, or if by reason of absence or incapacity they shall be prevented from treating for such sale, then and in every such case the justices of the peace at their general or quarter sessions or any two or more of them appointed for that purpose shall cause

the Value to be ascertained by a Jury.

the value of such houses buildings lands tenements hereditaments easements and privileges to be enquired into and ascertained by a jury of indifferent men of the county riding division city town liberty or precinct wherein the same shall be situated; and to that end shall summon and call before such jury and examine upon oath (which oath any one or more of such justices of the peace is and are hereby empowered to administer) any person or persons whomsoever; and such justices of the peace or any two of them shall by ordering a view or otherwise use all ways and means for the information of themselves and of such jury in the premises; and when such jury shall have enquired of and ascertained the value of such houses buildings lands tenements hereditaments easements and privileges the said justices of the peace shall thereupon order

Verdict of Jury, &c. to be final.

that the sum or sums which shall so appear to be the value of such houses buildings lands tenements hereditaments easements and privileges shall be paid in such manner as is herein-before directed touching the money to be paid for such houses buildings lands tenements hereditaments easements or privileges for sale whereof the person or persons interested shall contract and agree in manner aforesaid; which verdict or inquisition and order shall be filed of record by the clerk of the peace or other officer having the custody of the records of the said county riding division city town liberty or precinct, and shall be final and conclusive to all intents and purposes whatsoever against all parties and persons whomsoever claiming or to claim in possession remainder reversion or otherwise their heirs and successors, as well absent or present, infants lunaticks idiots and persons under coverture or any other disability whatsoever, corporations guardians committees husbands trustees and attornies or any other person or persons whomsoever.

How the Jury shall be summoned.

XV. And for the summoning and returning such juries, Be it further enacted, That such justices of the peace or any two of them may issue their warrant or warrants to the sheriff or bailiff of any particular county riding division city town liberty or precinct within the limits of which the houses buildings lands tenements hereditaments easements or privileges shall be situated, requiring him to impannel summon and return an indifferent jury of twenty-four persons qualified to serve on juries to appear before the said justices or any two of them at such time and place as in such warrant or warrants shall be appointed; and such

sheriff or bailiff is and are hereby required to impannel summon and return such number of persons accordingly, and out of the persons so impannelled summoned and returned or out of such of them as shall appear upon such summons the justices of the peace or any two of them shall and they are hereby empowered and required to draw by ballot and to swear or cause to be sworn twelve men who shall be the jury for the purposes aforesaid: and in default of a sufficient number of jurymen so returned the said sheriff or bailiff shall take such other honest and indifferent men of the by-standers or that can speedily be procured to attend that service to make up the number twelve; and all persons concerned shall have their lawful challenges against any of the said jurymen when they come to be sworn: and the said justices of the peace or any two of them shall have power from time to time to impose a fine or fines on such sheriff or bailiff or his deputy or deputies making default in the premises, and on any of the persons who shall be summoned and returned on such jury and who shall not appear, or appearing shall refuse to be sworn on the said jury, or being sworn shall refuse to give or shall not give a verdict, or shall in any other manner wilfully neglect his or their duty therein; and also on any person who being summoned and required to give evidence before the said jury shall refuse or neglect to appear, or appearing shall refuse to be sworn or to give evidence, so that no such fine be more than ten pounds nor less than twenty shillings on any one person for one offence.

Jurymen may be challenged.

Justices may fine the Sheriff, Bailiff, &c. making Default.

XVI. And be it further enacted, That in case any jury shall give in and deliver a verdict for more money as the value of such houses buildings lands tenements hereditaments easements or privileges so to be purchased than what shall have been offered for the purchase thereof by the said justices of the peace or their agent to any person capable of contracting for the same, the costs and expences of summoning and maintaining the jury and witnesses shall be borne and paid out of the same fund as the expences of the buildings to be erected thereon; but if such jury shall give in and deliver a verdict for no more or for less money than the money which shall have been so offered by such justices of the peace or their agent, then the costs and expences of summoning and maintaining the said jury and witnesses shall be borne and paid by the person or persons with whom such controversy or dispute touching the value of such houses buildings lands tenements hereditaments easements or privileges shall arise.

Expences of Jury, &c. how to be defrayed.

XVII. And be it further enacted, That upon payment of the money so ordered to be paid for the purchase of such houses buildings lands tenements hereditaments easements or privileges or (upon refusal or inability to receive the same) leaving the same in the hands of such person as the justices in their quarter sessions shall appoint for the use of the party or parties entitled thereto; or in case of the said party or parties not being to be found, then upon notice, to be published in some paper or papers circulating in or near the said county riding division city town liberty or precinct where such gaol is to be built or enlarged, of the payment or investment of such purchase-money, the said lands tenements hereditaments easements and privileges so purchased shall vest in the person or persons who shall be authorised to take and hold the same by virtue of this Act for the purposes aforesaid; and it shall be lawful for the said justices or any two of them their workmen or agents to enter upon and take possession of and make use of such houses buildings lands tenements hereditaments easements and privileges and every part thereof; and thereupon all such persons and parties who were the owners or occupiers thereof shall be divested of all right and title in and to the same and every part thereof.

On Payment of Purchase-money for Lands, &c. Justices may take Possession thereof.

XVIII. 'And whereas in several counties in *England* there are several 'and distinct commissions of justices of the peace for the several ridings 'or divisions into which such counties are divided, and several and dis-'tinct courts of sessions of the peace are holden for each of such ridings 'or divisions respectively, and in such counties there are not any courts 'of general or quarter sessions holden for the whole county at large;'

Clause relative to those Counties which are divided into several Ridings, &c.

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Be it therefore enacted, That in all such counties as aforesaid it shall and may be lawful for the justices of the peace in and for such several ridings or divisions respectively, and they are hereby required at the general quarter sessions which shall be holden next after such presentment of the gaol shall have been made as aforesaid to nominate and appoint three or more justices of the peace in and for such riding or division for which such general quarter sessions shall be holden; which said justices of the peace so nominated and appointed by each of such ridings or divisions are hereby authorised and required within one calendar month after such nomination and appointment as aforesaid (due notice thereof having been previously given to such justices by the clerk of the peace of such divisions respectively) to meet and assemble at such gaol which shall have been so presented as aforesaid; and the said justices of the peace or the major part of them then there assembled (such major part not being less than five in number) shall hold a special sessions at the said gaol for the purpose of receiving plans and contracting for the building rebuilding repairing enlarging or altering such gaol and the yards courts and outlets thereto belonging under the like restrictions and subject to the like regulations as are herein-before by this Act made and provided for such counties as are not divided into such ridings or divisions in manner as aforesaid; and the said last mentioned justices of the peace shall make their report to the general quarter sessions of the peace of such ridings or divisions respectively of the several plans estimates and contracts which shall have been made and entered into in manner aforesaid, and also a report of the sum or sums of money necessary to be raised and levied on each riding or division as their quota or proportion of the expence to be incurred on the several accounts aforesaid; which said sum or sums of money shall be raised and levied on each riding or division in like manner as county rates are now raised and levied.

No Justice acting under this Act to be interested in any Contract, &c.

XIX. Provided always and be it further enacted, That no justice of the peace who shall under the authority of this Act do any matter or thing in the execution hereof shall be capable of having any beneficial interest or concern whatsoever either in his own name or in the name of any other person in trust for him in any contract or agreement to be made under the authority of this Act, or shall for any design or plan he may deliver or produce receive any benefit or emolument whatsoever.

Justices may appoint Salaries to Gaolers in lieu of Profits arising from the Sale of Liquors.

XX. 'And whereas the preventing gaolers from selling any liquors or 'deriving any profit from the sale of liquors may be a great means of 'preventing drunkenness riots and other disorders in gaols and of pre-'serving good order therein; and it may be proper to give sufficient 'power and authority to the justices of the peace in their sessions in 'certain cases to allow salaries to gaolers in lieu of the profits which are 'now derived from the sale of liquors;' Be it therefore enacted, That from and after the said first day of *September* one thousand seven hundred and eighty-four it shall and may be lawful for the justices of the peace of any county riding division city town liberty or precinct within that part of *Great Britain* called *England* or the principality of *Wales*, at the general quarter sessions of the peace or some special adjournment of the same held for such express purpose, and they are hereby authorised and empowered if it shall appear to them necessary or proper to appoint such salaries or allowances to such gaolers and their assistants in the several gaols within their respective jurisdictions and to vary the same from time to time as to them shall seem meet; and to order and direct the said salaries and allowances to be paid out of the county rate by the treasurer of such county riding division city town liberty or precinct upon a certificate signed by the chairman of such quarter sessions specifying the salaries and allowances so directed to be made.

County Treasurer to pay the Salaries.

Chairman of the Sessions not to sign a Certificate for any such Payment, unless the Salaries have been settled at a General Quarter Sessions, &c.

XXI. Provided always and be it enacted, That it shall not be lawful for any chairman of any quarter sessions or adjournment thereof to sign such certificate for such salaries or allowances to be granted under this Act, unless such salaries or allowances shall have been settled at some general quarter sessions of the peace or some special adjournment thereof, and

notice shall have been given fourteen days at least before the holding such general quarter sessions or such adjournment thereof by two several advertisements inserted in some newspaper printed and circulated in the county riding division city town liberty or precinct in which such gaols are situated and where such salaries or allowances are to be granted to the gaolers, of an intended application for the granting such salaries or allowances; which said advertisements shall be signed by the clerk of the peace of such county riding division city town liberty or precinct or his deputy for the time being.

No Gaoler to suffer Tippling or Gaming, or to sell Liquors, in any such Prison, on Penalty of 10*l.*, to be recovered by Distress.

XXII. And be it further enacted, That from and after the twenty-fourth day of *June* one thousand seven hundred and eighty-five no gaoler or any person or persons in trust for or employed by such gaoler shall suffer tippling or gaming in such prison; or shall sell or dispose of or permit or suffer to be sold or disposed of or be capable of being licensed to sell or dispose of any wine beer ale or other liquors; or have any beneficial interest or concern whatsoever in the sale or disposal of any liquors of any kind, or in any tap-house tap-room or tap, under the penalty of ten pounds for every such offence, to be recovered by distress and sale of the offender's goods and chattels by warrant under the hands and seals of any two justices of the peace acting for the county riding division city town liberty or precinct within which such gaol is situated (which warrant such justices are hereby required to grant) upon the confession of the party or parties or upon the information of any witness or witnesses upon oath (which oath such justices are hereby empowered to administer); and the said penalty, after the charges of recovering the same shall be deducted, shall be paid one moiety to the informer and the other moiety to the use of the prisoners confined within such gaol; and in case sufficient distress cannot be found, then it shall be lawful for such justices to commit such offender or offenders to the house of correction for the county or place where the offence shall be committed, there to remain without bail or mainprize for any time not exceeding three calendar months, unless such penalty and all reasonable charges shall be sooner paid and satisfied.

XXIII. And be it further enacted, That all justices of the peace before whom any person shall be convicted of any offence against this Act shall and may cause the conviction to be drawn up in the following form or to the like effect; that is to say,

Form of Conviction.

County, &c. of { BE it Remembered, That on the day of in the year of the reign of his Majesty A. B. is convicted before of his Majesty's justices of the peace for the said county *or* riding division city town liberty or precinct [*as the case shall be*], by virtue of an Act of Parliament made in the twenty-fourth year of the reign of his Majesty King *George* the Third, intituled [*here set forth the title of the Act, and specify the offence, and the time and place when and where the same was committed.*]

Given under our hands and seals the day and year aforesaid.

Limitation of Actions.

General Issue.

XXIV. And be it further enacted, That if any action or suit shall be brought or commenced against any person or persons for any thing done in pursuance of this Act, every such action or suit shall be brought or commenced within six calendar months next after the fact committed and not afterwards; and shall be laid and brought in the county or place where the cause of action shall arise and not elsewhere; and the defendant or defendants in such action or suit shall and may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereon, and that the same was done in pursuance and by the authority of this Act: and if it shall appear to have been so done or if any action or suit shall be brought after the time before limited for bringing the same, or shall be brought in any other county or place than as aforesaid, then and in such case the jury shall find for the defendant or defendants; or if the plaintiff or plaintiffs shall become nonsuit or suffer a discontinuance of his her or their action or suit after

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the defendant or defendants shall have appeared, or if a verdict shall pass against the plaintiff or plaintiffs, or if upon demurrer or otherwise judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall have treble costs, and shall have such remedy for the same as any defendant hath for costs of suit in other cases by law.*

* Treble Costs.

Publick Act.

XXV. And be it further enacted, That this Act shall be deemed and taken to be a publick Act; and all judges justices and other persons shall take notice thereof as such without specially pleading the same.

The Schedule herein-before referred to.

Form of Mortgage and Charge upon the County Rates for securing the Money borrowed.

WE A. B. one of his Majesty's justices of the peace and chairman of the court of quarter sessions of the peace for the county, &c. of *(as the case shall be)* holden at the day of C. D. and E. F. Esquires, two other of his Majesty's justices of the peace acting for the said county, &c. and assembled in the said court in pursuance of the powers to us given by an Act passed in the twenty-fourth year of the reign of his Majesty King *George* the Third, intituled, &c. [*insert the title of the Act*] do hereby in open court mortgage and charge all the rates to be raised within the said county, &c. *(as the case shall be)* under the description of county rates by the laws now in being, with the payment of the sum of which G. H. of hath proposed and agreed to lend and hath now actually advanced and paid towards defraying the expences of building repairing, &c. *(as the case shall be)* the gaol for the said county, &c. And we do hereby confirm and establish the same unto the said G. H. his executors, administrators and assigns, for securing the repayment of the said sum of and interest for the same after the rate of *per centum per annum;* and do order the treasurer for such county, &c. or other person *(as the case shall be)* to pay the interest of the said sum of half yearly as the same shall become due until the principal shall be discharged pursuant to the directions of the said Act.

[No. XXIII.] 24 George III. Sess. 2. c. 55.—An Act to explain and amend an Act made in the Twenty-second Year of the Reign of his present Majesty, intituled "An Act for the amending and rendering more effectual the Laws in being relative to Houses of Correction."

24 George III. sess. 2. c. 55.
22 Geo. 3. c. 64.

'WHEREAS by an Act passed in the twenty-second year of the reign of his present Majesty, intituled "An Act for the amending and rendering more effectual the laws in being relative to Houses of Correction;" reciting, amongst other things, That in many counties the houses of correction were insufficient in number or deficient in building and the apartments in them were very ill accommodated to the purposes for which they were intended, by means whereof and from a want of due order employment and discipline in such houses of correction the persons sent thither for correction and reformation frequently grew more dissolute and abandoned during their continuance in such houses, it was enacted, That the justices of peace in every county riding division city liberty and precinct within *England* and *Wales* at their respective quarter sessions of the peace to be holden next after *Midsummer* from the time of passing the said Act should and they were thereby required to nominate one or more justice or justices of the peace within their respective jurisdictions divisions or districts whom they should think most proper to examine and inspect the several houses of correction within the same; and the justice or justices so to be nominated were required carefully and diligently to inspect the same with all con-

No. XXIII. 24 Geo. III. sess. 2. c. 55.

'vement speed, and report his or their opinion to the justices of their 'respective jurisdictions at the *Michaelmas* quarter sessions then next 'following (as to the state and condition thereof and the increase of 'number or additions or alterations which they might judge necessary 'to make them more convenient and useful having regard to the classing 'of the several persons who should be kept there according to the nature 'of their crimes and punishments, and to the providing proper places for 'the employment of such persons who were committed to hard labour, 'and to the keeping every part of such prisons clean and wholesome; 'and the said justice or justices so to be nominated were thereby required 'to employ proper and skilful persons to make plans and estimates of 'new buildings or the additions or alterations which he or they should 'think necessary in the present buildings to make them answer the 'several purposes of the said Act; which plans together with the report 'of the said justice or justices were to be laid before the court at the said '*Michaelmas* quarter sessions; or if from any difficulties or accidents such 'reports should not happen to be made at that sessions, then and in that 'case the same should be made at or before the *Epiphany* quarter sessions 'then next following); which court was thereby authorised and re-'quired to consider the same, and if they approved such plans they 'might adjourn the quarter sessions to a further day for receiving pro-'posals from persons inclined to undertake such work of which due 'notice should be published, and then to contract with such persons 'whom they should think most proper to do the same; or if they dis-'approved such plans or estimates to direct such others to be made as 'they should think fit, and adjourn their quarter sessions to some further 'day to receive such new plans and estimates and also proposals from 'persons inclined to undertake the work; and the justices in settling and 'adjusting such plans were thereby required to provide separate apart-'ments for all persons committed upon charges of felony or convicted of 'any theft or larceny and committed to the house of correction for pu-'nishment by hard labour under or by virtue of the laws in being, in 'order to prevent any communication between them and the other pri-'soners; and also proper apartments covered or open as should be found 'most convenient for employing the several persons who were to be kept 'to hard labour; and they were also to provide separate apartments in 'each division of the said house of correction for the women who should 'be committed thither; and the said justices at their general quarter 'sessions were thereby empowered from time to time upon any such 'report to them made to make such order thereupon as to them should 'seem just and the nature of the case might require: And whereas the 'justices of the peace within many of the said jurisdictions have omitted 'to make such nomination and to cause the necessary examinations in-'spections and proceedings to be made within the times prescribed by 'the said Act, whereby the wholesome regulations and the benefit in-'tended by the said Act will be lost to the publick within such jurisdic-'tions unless further time be given for that purpose;' For remedy whereof, Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That it shall and may be lawful for the justices of the peace for any county riding division city liberty or precinct within *England* and *Wales* who have omitted to examine and inspect into the state of the houses of correction within their respective limits, and to proceed in repairing altering and regulating the same according to the directions and intention of the said recited Act, to inquire into examine inspect and fully to execute and enforce the same at the next or any subsequent quarter session of the peace to be holden after the passing of this Act as fully and effectually to all intents and purposes as they could or might have done if they had proceeded therein at the quarter sessions held next after *Midsummer Michaelmas* or *Christmas* from the time of passing the said Act; any thing therein or in any other Act contained to the contrary thereof in anywise notwithstanding.

Justices who have not inspected into the State of the Houses of Correction within their Limits, according to the Directions of the recited Act, may do it, and execute the same at the next Quarter Sessions, &c.

No. XXIII.
24 Geo. III. sess. 2. c. 55.

When the Amount of any Estimate for building, enlarging, &c. shall be very high, the Justices in Session may mortgage the Rates, &c.

II. 'And whereas the expences of building rebuilding enlarging or 'removing and fitting up houses of correction may in some cases become 'very burthensome on the occupiers of land and other the contributors 'to the county rates in case the said expences should be raised in the 'manner herein-before mentioned;' Be it therefore enacted, That where it shall appear that the amount of any estimate approved by the justices for the building rebuilding enlarging or removing and fitting up any house or houses of correction under the powers of this Act shall exceed one half of the amount of the ordinary annual assessment for the county rate for any county riding division city town liberty or precinct (such ordinary assessment to be taken on a mean proportion of the said rate for the last five years preceding), that then and in such case it shall and may be lawful for the justices of the peace within the respective limits of their commissions so assembled in their quarter sessions as aforesaid, from time to time to borrow and take up on mortgage of the rates herein mentioned, by instruments in the form contained in the schedule hereunto annexed or to that or the like effect, any sums not less than fifty pounds nor exceeding one hundred pounds each at legal or lower interest as to them or the major part of them, such major part not being less than five, shall appear necessary and expedient for the purposes aforesaid, and to secure all and every such sum and sums of money so borrowed upon the credit of the rates to be raised upon such county riding division city town liberty and precinct respectively; and the said justices so assembled as aforesaid are hereby authorised to treat and agree with any person or persons for the loan of any such sum or sums of money and by their order to confirm and establish every such agreement as aforesaid; and every such agreement so established by such order and signed by the chairman and two or more justices present at the time of making such order shall be and the same is hereby declared to be effectual for securing to the person or persons so advancing any sum or sums of money, his her or their executors administrators and assigns, all and every such sum or sums of money with interest for the same on such terms as in and by such agreement or agreements respectively shall be for that purpose stipulated; and copies or extracts of all such agreements or securities shall be kept with the clerk of the peace or other proper officer having the custody of the records of the quarter sessions of such county riding division city town liberty or precinct respectively; and all and every person and persons to whom any such security or securities shall be made, or who shall be intitled to the money thereby secured, is and are hereby empowered (by indorsing his her or their name or names on the back of such security or securities) to transfer and assign the same and his her or their right to the principal money and interest thereby secured unto any person or persons; and every such assignee may in like manner transfer the same again and so *toties quoties;* and the person or persons to whom such security or securities or any such assignment thereof shall be made, and his her or their respective executors administrators and assigns shall be creditors upon the said rates in an equal degree one with another, and shall not have any preference with respect to the priority of any monies so advanced.

Agreements by order of the Justices, signed by the Chairman, &c. to be an effectual Security.

Securities may be transferred.

To what Extent the Justices may charge the County Rates.

III. And be it further enacted, That the said justices shall and they are hereby authorised and required not only to charge the rates to be raised upon such county riding division city town liberty or precinct with the interest of the monies so borrowed on such securities but also with the payment of a further sum equal at least to the sum so charged for the interest of such securities; which said sum shall be assessed on such county riding division city town liberty or precinct in such manner as county rates are directed to be assessed by the laws now in being and paid and applied under the direction of the said justices in discharge of the interest and of so many of the principal sums on the said securities as such money will extend to discharge in each year until the whole of the money for which such securities shall be made and the interest thereof shall be fully paid and discharged; and the said justices are required to fix one or more day or days in each year on which such payment shall be made, and shall make orders for assessments in due

time so as to provide for the regular payment thereof; and they are hereby required to appoint a proper person to keep an exact and regular account of all the receipts and payments under the authority of this Act in a book or books separate and apart from all other accounts, and the same to settle and adjust in such manner that it may easily be seen what interest is growing due and what principal money has been discharged and what remains due; and the said book or books so adjusted and settled to deliver into court at every general or quarter sessions to be held for any such county riding division city town liberty or precinct; and the said justices are required at every such sessions carefully to inspect all such accounts and make orders for carrying the several purposes of this Act into execution in such manner as to them shall meet; and if at any time it shall appear to the said justices that the person so appointed has neglected the said order and has not duly and without delay applied the money in his hands to the purposes hereby directed, such person shall forfeit double the amount of the money which shall not have been applied to the purposes of this Act; and the said justices so assembled in session as aforesaid shall direct in what order such securities shall be discharged by drawing lots or otherwise as they shall think fit, first discharging all such securities which shall bear the highest interest.

A regular Account to be entered in a Book; which shall be inspected by the Justices at every Sessions, &c.

IV. Provided always and be it further enacted, That the justices of the peace in their respective quarter sessions shall and they are hereby required to make provisions by means of the rates (which they are hereby authorised to make), and by their orders and directions (which they are hereby authorised to give), in such manner that the whole money to be borrowed under the authority of this Act shall be fully paid and discharged within a time to be limited not exceeding fourteen years from the time of borrowing the same.

Money borrowed under this Act to be paid within a limited Time.

V. And be it further enacted, That in cases where such houses of correction shall be pulled down repaired rebuilt or enlarged by the authority of this Act or any other law in being, it shall and may be lawful to and for the said justices in their quarter sessions assembled to sell and dispose of the materials of such old houses of correction or such parts thereof and also of the whole or such parts of the site or ground belonging thereto as shall not be necessary to be used for or in the rebuilding repairing or enlarging such houses of correction at the best price or prices that can or may be gotten for the same; which monies shall be applied to the purposes of this Act; and in case of any such purchase of lands tenements or hereditaments which shall exceed what is necessary to be so used or employed the said justices may sell and dispose of the same and apply the money to be raised by such sale for the purposes aforesaid.

Justices may dispose of old Houses of Correction, and the Ground on which they stand.

VI. And be it further enacted, That it shall and may be lawful for the King's most excellent Majesty his heirs and successors, and for all bodies politick and corporate and also for all guardians committees husbands trustees and attornies of any person or persons being infants lunaticks idiots under coverture or any other disability, and also for all other persons who are or shall be seised possessed of or interested in any houses buildings lands tenements hereditaments easements or privileges which shall be deemed necessary for the purposes of this Act, to contract or agree for and to sell convey and assure such houses buildings lands tenements hereditaments easements and privileges unto such person or persons as shall be named by the justices in trust and for the purpose of erecting new houses of correction or enlarging the old houses of correction and the yards courts and outlets thereunto belonging; and all such contracts agreements sales conveyances and assurances shall be valid and effectual in law to all intents and purposes whatsoever; any law statute usage or custom to the contrary thereof notwithstanding.

Bodies Politick, &c. may sell and convey Lands, &c.

VII. And be it further enacted, That all sums of money which shall be agreed to be paid to any corporation guardian committee husband trustee or attorney for or on behalf of any infants lunaticks idiots femes covert or cestuique trust, or to any other person or persons whose houses

Purchase-money, exceeding 100*l.* to be laid out in purchase of Lands, &c. subject to the same Uses, &c.

No. XXIII.
24 Geo. III. sess. 2. c. 55.

buildings lands tenements hereditaments easements and privileges shall be limited in strict settlement for the purchase of any such lands tenements and hereditaments, shall, in case such sums of money shall exceed the sum of one hundred pounds, be laid out by such corporations guardians committees husbands trustees or attornies or any person or persons seised of such houses buildings lands tenements hereditaments easements or privileges so limited in strict settlement as soon as conveniently may be in the purchase of lands tenements and hereditaments in fee simple, to be conveyed to or to the use of such corporations guardians committees husbands trustees or attornies, and to and for such person or persons and for such estate and estates, and to for and upon and subject to such uses limitations remainders and contingencies as the houses buildings lands tenements hereditaments easements or privileges for and in respect whereof such purchase-money shall be paid as aforesaid shall be limited settled and assured at the time such purchase or contract shall be made in manner aforesaid or such as shall then be capable of taking effect; the charges of such conveyances and settlements to be paid in the same manner as the other expences relating to the house of correction; and in the mean time and till such purchase or purchases shall be made, such money, whether the same shall or shall not exceed the sum of one hundred pounds, shall be laid out by such corporation or other persons for the time being interested therein in some government securities in the names of two persons, one to be nominated by the party or parties for the time being interested therein, and the other by the justices aforesaid; and the interest arising from such securities shall be paid to such person or persons respectively as would have been intitled to the rents and profits of such lands tenements hereditaments easements and privileges in case the same had not been sold, or would for the time being be intitled to the rents and profits of such lands tenements and hereditaments so to be purchased in case the same were purchased and settled as aforesaid.

And until such Purchases are made, the Money to be laid out in Government Securities.

If the Parties refuse to treat, &c.

VIII. And be it further enacted, That if any such corporations guardians committees husbands trustees and attornies or any person or persons for the time being interested in any such houses buildings lands tenements hereditaments easements or privileges which shall be deemed necessary for the purposes of building or enlarging any such house of correction and other the purposes of this Act upon notice in writing to him her or them given or left at the house or houses or other place or places of abode of such person or persons or of the principal officer or officers of any such corporation, shall for the space of twenty-one days after such notice so given or left as aforesaid neglect or refuse to treat or shall refuse to accept such price as shall be offered by the justices or their agents, or shall otherwise not agree for the sale of such houses buildings lands tenements hereditaments easements or privileges, or if by reason of absence or incapacity they shall be prevented from treating for such sale; then and in such case the justices of the peace at their general or general quarter sessions or any two or more of them appointed for that purpose shall cause the value of such houses buildings lands tenements hereditaments easements and privileges to be inquired into and ascertained by a jury of indifferent men of the county riding division city town liberty or precinct wherein the same shall be situated; and to that end shall summon and call before such jury and examine upon oath (which oath any one or more of such justices of the peace is and are hereby empowered to administer) any person or persons whomsoever; and such justices of the peace or any two of them shall by ordering a view or otherwise use all ways and means for the information of themselves and of such jury in the premises; and when such jury shall have inquired of and ascertained the value of such houses buildings lands tenements hereditaments easements and privileges, the said justices of the peace shall thereupon order that the sum or sums which shall so appear to be the value of such houses buildings lands tenements hereditaments easements and privileges shall be paid in such manner as is herein-before directed touching the money to be paid for such houses buildings lands

the Value to be ascertained by a Jury.

tenements hereditaments easements or privileges, for sale whereof the person or persons interested shall contract and agree in manner aforesaid; which verdict or inquisition and order shall be filed of record by the clerk of the peace or other officer having the custody of the records of the said county riding division city town liberty or precinct, and shall be final and conclusive to all intents and purposes whatsoever against all parties and persons whomsoever claiming or to claim in possession remainder reversion or otherwise their heirs and successors, as well absent as present, infants lunaticks idiots and persons under coverture or any other disability whatsoever, corporations guardians committees husbands trustees and attornies or any other person or persons whomsoever.

Verdict of Jury, &c. to be final.

IX. And for the summoning and returning such juries, Be it further enacted, That such justices of the peace or any two of them may issue their warrant or warrants to the sheriff or bailiff of any particular county riding division city town liberty or precinct within the limits of which the houses buildings lands tenements hereditaments easements or privileges shall be situated, requiring him to impannel summon and return an indifferent jury of twenty persons qualified to serve on juries to appear before the said justices or any two of them at such time and place as in such warrant or warrants shall be appointed; and such sheriff and bailiff is and are hereby required to impannel summon and return such number of persons accordingly, and out of the persons so summoned impannelled and returned, or out of such as shall appear upon such summons, the justices of the peace or any two of them shall and they are hereby empowered and required to draw by ballot and to swear or cause to be sworn twelve men who shall be the jury for the purposes aforesaid; and in default of a sufficient number of jurymen so returned, the said sheriff or bailiff shall take such other honest and indifferent men of the standers-by or that can speedily be procured to attend that service to make up the number twelve; and all persons concerned shall have their lawful challenges against any of the said jurymen when they come to be sworn: and the said justices of the peace or any two of them shall have power from time to time to impose a fine or fines upon such sheriff or bailiff or his deputy or deputies making default in the premises; and on any of the persons who shall be summoned and returned on such jury and who shall not appear or appearing shall refuse to be sworn on the said jury, or being sworn shall refuse to give or shall not give a verdict, or shall in any other manner wilfully neglect his or their duty therein; and also on any person who being summoned and required to give evidence before the said jury shall refuse or neglect to appear or appearing shall refuse to be sworn or to give evidence; so that no such fine be more than ten pounds nor less than twenty shillings on any one person for one offence.

How the Jury shall be summoned.

Jurymen may be challenged.

Justices may fine the Sheriff, Bailiff, &c. making Default.

X. And be it further enacted, That in case any jury shall give in and deliver a verdict for more money as the value of such houses buildings lands tenements hereditaments easements or privileges so to be purchased than what shall have been offered for the purchase thereof by the said justices of the peace or their agents to any person capable of contracting for the same, the costs and expences of summoning and maintaining the jury and witnesses shall be borne and paid out of the same fund as the expences of the buildings to be erected thereon; but if such jury shall give in and deliver a verdict for no more or for less money than the money which shall have been so offered by such justices of the peace or their agent, then the costs and expences of summoning and maintaining the said jury and witnesses shall be borne and paid by the person or persons with whom such controversy or dispute touching the value of such houses buildings lands tenements hereditaments easements or privileges shall arise.

Expences of Jury, &c. how to be defrayed.

XI. And be it further enacted, That upon payment of the money so ordered to be paid for the purchase of such houses buildings lands tenements hereditaments easements or privileges, or upon refusal or inability to receive the same, leaving the same in the hands of such person as the justices in their quarter sessions shall appoint for the use of the party or parties entitled thereto, or in case of the said party or parties not being

On Payment of Purchase-money for Lands, &c. Justices may take Possession thereof.

No. XXIII. 24 Geo. III. sess. 2. c. 55.

to be found, then upon notice to be published in some paper or papers circulating in or near the said county riding division city town liberty or precinct where such house of correction is to be built or enlarged, of the payment or investment of such purchase-money, the said lands tenements hereditaments easements and privileges so purchased shall vest in the person or persons who shall be authorised to take and hold the same by virtue of this Act for the purposes aforesaid; and it shall be lawful for the said justices or any two of them their workmen or agents to enter upon and take possession of and make use of the said houses buildings lands tenements hereditaments easements and privileges and every part thereof; and thereupon all such persons and parties who were the owners or occupiers thereof shall be divested of all right and title in and to the same and every part thereof.

Justices who are authorised to convict in a summary way, may commit Offenders to the House of Correction.

XII. And be it further enacted, That in all cases where any justice or justices of the peace is or are or shall be by any Act of Parliament authorised or empowered to convict any person or persons before him or them in a summary way without the intervention of a jury, it shall and may be lawful from and after the passing of this Act for such justice or justices of the peace so authorised or empowered as aforesaid, if he or they shall think fit, to commit such person or persons so convicted in such summary way as aforesaid to the house of correction within his or their jurisdiction in lieu or in stead of the common gaol; any law statute or custom to the contrary notwithstanding.

The Schedule to which this Act refers.

Form of Mortgage and Charge upon the County Rates for securing the Money borrowed.

WE A. B. one of his Majesty's Justices of the Peace and Chairman of the court of quarter sessions of the peace for the county, &c. of (*as the case shall be*) holden at the day of C.D. and E.F. esquires, two other of his Majesty's Justices of the Peace acting for the said county, &c. and assembled in the said court in pursuance of the power to us given by an Act passed in the twenty-fourth year of the reign of his Majesty King *George* the Third, intituled, &c. [*insert the title of the Act*] do hereby in open court mortgage and charge all the rates to be raised within the said county, &c. (*as the case shall be*) under the description of county rates by the laws now in being with the payment of the sum of which G. H. of hath proposed and agreed to lend, and hath now actually advanced and paid towards defraying the expences of building, repairing, &c. (*as the case shall be*) the house of correction for the said county, &c. And we do hereby confirm and establish the same unto the said G. H. his executors administrators and assigns, for securing the repayment of the said sum of and the interest agreed upon for the same after the rate of *per centum per annum*; and do order the treasurer for such county, &c. or other person (*as the case shall be*) to pay the interest of the said sum of half-yearly as the same shall become due, until the principal shall be discharged pursuant to the directions of the said Act.

P. [No. XXIV.] 24 George III. Sess. 2. c. 56.—An Act for the effectual Transportation of Felons and other Offenders; and to authorise the Removal of Prisoners in certain Cases; and for other Purposes therein mentioned.

24 Geo. III. sess. 2. c. 56.

XII. 'AND whereas there are several persons confined in county and 'city gaols in *England* and *Wales* under sentences and orders 'made by one or more justice or justices of peace at their sessions or 'otherwise upon convictions in a summary way without the intervention

'of a jury;' Be it further enacted, That it shall be lawful for any justice of assize or great sessions, or any two or more justices of the peace within whose jurisdiction such gaol is situate, to remove any such person or persons to any house of correction within the said jurisdiction, there to be confined and to remain in execution of such sentence or order.

No. XXIV. 24 Geo. III. sess. 2. c. 56.

Justice of Assize may remove Prisoners committed by Justices of the Peace.

[No. XXIV. *a.*] 27 George III. c. 11.—An Act to explain and amend so much of an Act, made in the Sixth Year of the Reign of King *George* the First, intituled *An Act for making perpetual so much of an Act, made in the Tenth Year of the Reign of Queen* Anne, *for the reviving and continuing several Acts therein mentioned, as relates to the Building and Repairing County Gaols; and also an Act of the Eleventh and Twelfth Years of the Reign of King* William *the Third, for the more effectual Suppression of Piracy; and for making more effectual the Act of the Thirteenth Year of the Reign of King* Charles *the Second, intituled "An Act for establishing Articles and Orders for the regulating and better Government of his Majesty's Ships of War and Forces by Sea,"* as gives discretionary Power to Magistrates to commit Vagrants and other Criminals, Offenders, and Persons charged with small Offences, either to the Common Gaol or House of Correction.

27 Geo. III. c. 11.

Preamble. 6 *Geo.* 1. *c.* 19.

WHEREAS doubts have arisen whether such of the provisions contained in an Act made in the sixth year of the reign of his late Majesty King *George* the First, intituled An Act for making perpetual so much of an Act made in the tenth year of the reign of Queen *Anne* for the reviving and continuing several Acts therein mentioned as relates to the building and repairing county gaols; and also an Act of the eleventh and twelfth years of the reign of King *William* the Third, for the more effectual suppression of piracy; and for making more effectual the Act of the thirteenth year of the reign of King *Charles* the Second, intituled, *An Act for establishing Articles and Orders for the regulating and better Government of his Majesty's Ships of War and Forces by Sea*, as give a discretionary power to justices of the peace in their respective jurisdictions to commit vagrants and other criminals offenders and persons charged with small offences either to the common gaol or house of correction, extend to offences committed against the provisions contained in Acts of Parliament made since the passing of the said recited Act where such offenders are ordered to be committed to the common gaol: And whereas it may be proper to extend the provisions of the said Act; May it therefore please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That it shall be lawful for any justice or justices of the peace within his or their respective jurisdictions to commit either to the common gaol or to any house of correction within his or their respective jurisdictions, as to such justice or justices shall seem most proper, such vagrants and other criminals offenders and persons charged with or convicted of small offences as by any law now in force or hereafter to be made he or they is or are or shall be authorised to commit to the common gaol.

Justices may commit Vagrants, &c. to the House of Correction.

No. XXV.
29 Geo. III. c. 67.

[No. XXV.] 29 George III. c. 67.—An Act for the more effectual Execution of the Laws respecting Gaols.

29 George III. c. 67.

Preamble.

At the Quarter Session next after this Session of Parliament, and at the Michaelmas Session annually, a Certificate in the Form annexed, to be delivered by every Gaoler to the Chairman, read in open Court, and entered upon Record.

FOR the more effectual execution of the laws now in being for the well ordering of gaols and securing the health of prisoners, May it please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in Parliament assembled, and by the authority of the same, That at the general quarter session of the peace throughout *England* and *Wales*, to be next holden after the end of this session of Parliament, and at the first session of the peace to be holden after *Michaelmas* in every succeeding year, the gaoler or other officer having the care or superintendence of any gaol within the jurisdiction of the court holding such session, shall and he is hereby required to deliver or cause to be delivered to the chairman or other magistrate presiding in such court, a certificate according to the form hereunto annexed subscribed by himself and verified by him to the best of his knowledge and belief, on his oath to be taken either before such court, or in case of sickness or inability from any other cause to attend, then before some justice of the peace for the county town or district in which such gaol shall be situated, and that such certificate shall express after each of the provisions therein enumerated whether such provision is or is not complied with or observed within such gaol; and such certificate shall be read publicly in open court in the presence of the grand jury, and entered upon record as part of the minutes of the said session.

The Court to take the Certificate into Consideration, &c.

II. And be it further enacted by the authority aforesaid, That the said court of quarter sessions shall thereupon take the said certificate into their consideration, and summon any person or persons named therein to appear before them, and shall give such directions and make such orders relative to any of the matters contained in such certificate as to such justices shall seem meet, and shall and may take security from any person or persons whom the same may concern for his or their due compliance therewith.

Penalty on Gaolers neglecting to deliver Certificates.

III. And be it further enacted, That if any gaoler or other officer having the care or superintendence of any gaol being a county gaol shall neglect to deliver or cause to be delivered such certificate as aforesaid, he shall forfeit for every such offence the sum of fifty pounds, and not being a county gaol the sum of twenty pounds, to be recovered by any person who shall sue for the same in any of his Majesty's courts of record at *Westminster*, or court of great session in *Wales*, or the county palatine of *Chester* if the offence shall arise there, by action of debt bill plaint or information, wherein no essoign protection wager of law or more than one imparlance shall be granted or allowed.

Certificate referred to in the Body of this Act.

to wit. { " AT the General Quarter Sessions of the Peace for the
" holden at
" this day of in the year of
" our Lord the Certificate of
" in pursuance of the Statute in this case made and provided
" respecting the Gaol of

22 and 23 *C.* 2. c. 20. enacts, That

Felons and debtors shall be kept separate, under penalties upon the sheriff or gaoler.

24 *G.* 2. c. 40. enacts, That

1. No gaoler shall sell lend use give away or suffer spirituous liquors within any gaol under a penalty.

2. Copy of the clause last-mentioned, as also of two other clauses respecting the same, shall be hung up in the gaol under a penalty.

32 *G.* 2 c. 28. enacts, That

The clerk of the peace shall cause a list of the fees pay-

able by debtors, and the rules and orders for the government of gaols and prisons to be hung up in the court where the assizes or sessions shall be held, and send another copy to the gaol; and the gaoler shall cause the same to be hung up in a conspicuous place in the said gaol.

13 *G.* 3. c. 58. enacts, That

Clergymen may be provided to officiate in gaols.

14 *G.* 3. c. 20. enacts, That

Persons acquitted or discharged upon proclamation for want of prosecution shall be discharged immediately in open court and without fee.

14 *G.* 3. c. 59. enacts, That

1. The walls and ceilings of cells in gaols shall be scraped and white-washed once in the year at least.

2. That the cells shall be kept clean; and

3. That they shall be supplied with fresh air by ventilators or otherwise.

4. That there shall be two rooms set apart for the sick.

5. That a warm and cold bath or bathing-tubs shall be provided.

6. That this Act shall be hung up in the gaol.

7. That a surgeon or apothecary shall be appointed with a salary.

[No. XXVI.] 31 George III. c. 46.—An Act for the better regulating of Gaols, and other Places of Confinement.

31 George III. c. 46.

Preamble.

'FOR the better regulation of gaols and other places of confinement used as houses of correction or penitentiary houses in and for the several counties ridings and divisions within that part of *Great Britain* called *England*:' Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That the justices of the peace assembled at one or more general or quarter sessions for any county riding or division or at any special adjournment thereof held for such express purpose, of which sessions or adjournment public notice shall have been given in some newspaper circulating in such county and signed by the clerk of the peace, and at which five justices at least shall be present, shall appoint a governor or task-master and such other officers for every place of confinement used as a house of correction or penitentiary house, in and for such county riding or division, and with such salaries and allowances for the said governor and other officers as they the said justices or the major part of them shall deem necessary, and to order or direct the said salaries to be paid out of the county rate; and the said justices shall from time to time have power at their general or quarter sessions or any adjournment thereof as aforesaid to remove the governor and other officers of the said houses and to appoint others in their stead, and to increase or diminish the number of the officers exclusive of the governor, and also to alter the salaries and allowances of such governor and other officers as they shall from time to time find convenient; and in fixing the salary and allowance of such governor or task-master the justices shall have regard so far as may be to the making the emoluments of the office depend on the quantity of work done and performed in such houses, that it may become the interest as well as duty of such governor or task-master to see that all persons under his custody be regularly and profitably employed; and such governor and other officers shall give such security for the performance of their respective duties, and to such person or persons as the said justices from time to time at any such general or quarter sessions shall appoint; and such governor or other officers for

Justices in Session to appoint a Governor and other Officers for Houses of Correction, &c.

and may remove them, &c.

Officers to give Security for Performance of their Duties, and may be proceeded against for Neglect, &c.

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any negligence or misbehaviour in their respective offices may either be proceeded against on the security so to be given, or shall be fineable by the said justices at any general or quarter sessions, in the same manner as the governor of any house of correction is fineable by justices of the peace, by an Act passed in the seventh year of King *James* the First, intituled "An Act for the due execution of divers laws and statutes heretofore made against Rogues Vagabonds and sturdy Beggars and other lewd and idle Persons;" or by an Act of the seventeenth year of King *George* the Second, intituled "An Act to amend and make more effectual the laws relating to Rogues Vagabonds and other idle and disorderly Persons and to Houses of Correction;" and if any governor of any such house being removed by any order of the said justices at their general or quarter sessions or any adjournment thereof shall refuse or neglect to quit the possession of the said house for forty-eight hours next after notice given to him in writing by the clerk of the peace, any two or more of the said justices upon proof before them of such order of removal such notice thereof and such neglect or refusal to comply with the same, may by warrant under their hands and seals direct the sheriff of the said county to remove such governor out of the said house, and the sheriff shall accordingly clear the possession thereof, in like manner as upon a writ of *habere facias possessionem*.

7 Jac. 1. c. 4.
17 Geo. 2. c. 5.

Governors may be compelled to quit Possession.

Justices in Session to make Rules for Penitentiary Houses, &c.

II. And be it further enacted, That the justices of the peace shall and they are hereby authorised and required at some general or quarter sessions or adjourned session as aforesaid to make such rules and orders for receiving separating classing dieting cloathing maintaining employing reforming governing managing treating and watching all offenders during their respective confinement in the said penitentiary houses, and also for adjudging what aid shall be given to them as well during such confinement as on their being released, as to the said justices shall seem most fit and proper; but no such rules and orders shall be made at any such sessions unless five justices at least shall be present; and in making such rules and orders the said justices shall have regard to the discipline provisions and directions contained in an Act of the nineteenth year of his present Majesty, intituled "An Act for explaining and amending the Laws relating to the Transportation Imprisonment and other Punishment of certain Offenders," concerning the two national penitentiary houses therein mentioned; but such rules and orders so to be made as aforesaid shall not begin to have force until they have been submitted to the justices of assize great session oyer and terminer or gaol delivery at the assizes which shall be holden for such county next after the making of such rules and orders or at some subsequent assizes, and the said justices to whom such rules and orders shall have been submitted shall have subscribed a certificate or declaration that they do not see any thing contrary to law in the said rules and orders so to be made as aforesaid; and all such rules and orders shall be afterwards added to or altered from time to time, as often as the said justices of the peace for such county at any general or quarter sessions or adjourned session as aforesaid (at which five at least shall be present) shall think necessary, and such additions or alterations shall also in like manner be submitted to the justices of assize great session oyer and terminer or gaol delivery at any assizes for such county in manner aforesaid, who shall subscribe such certificate or declaration as before mentioned; but nothing herein contained shall extend or be construed to extend to deprive any convict of the benefit of any weekly or other allowance which has usually been or hereafter may be granted or made by virtue of any law statute custom or order for the purpose of maintaining and supporting convicted prisoners, provided only that the application of all and every such allowance shall be subject to such limitations and restrictions as may be contained in the rules and orders herein directed to be made for the government and police of the said houses.

19 Geo. 3. c. 74.

Rules to be submitted to the Justices of Assize for Confirmation.

Rules may be altered.

Act not to deprive Convicts of any Allowance made by Law.

Powers and Duty of Governors.

III. And be it further enacted, That every governor of the several places of confinement to be used as houses of correction or penitentiary houses and his or their assistants shall have the same powers over the

offenders to be confined therein as are incident to the office of a sheriff or of a gaoler, and in like manner be answerable for the escape of any offender within his custody; and moreover the said governor shall have power to hear complaints and examine persons touching offences and punish the same (except by whipping) in such and the same manner as the governor of each penitentiary house directed to be built by the said Act of the nineteenth year of his present Majesty is by the said Act empowered to do; and in case of the repetition of such offences, or in case of offences more enormous which the said governor is not by this Act empowered to punish, the said governor shall report the same to the visiting justices or one of them for the time being to be appointed as hereinafter is directed, and such justices or one of them shall have power to inquire upon oath and determine concerning all such offences so reported to them, and shall order such offenders to be punished either by moderate whipping repeated whippings or by close confinement for any term not exceeding one month; and if any person ordered to hard labour shall at any time during the term for which he or she shall be so ordered break prison, or shall escape from the place of his or her confinement or in the conveyance to the same, or from the person or persons having the lawful custody of such offender, or if any person shall rescue any offender who shall be ordered to hard labour either during his or her conveyance to the place of his or her confinement, or whilst such offender shall be in the custody of the person or persons under whose care and charge he or she shall be confined, or if any person shall be aiding or assisting in any such rescue, or if any person having such custody as an assistant shall voluntarily or negligently permit such offender to escape, or if any person shall by supplying arms tools instruments or means of disguise, or otherwise in any manner aid or assist any such offender in any escape or in any attempt to make any escape though no escape be actually made, every such offence as aforesaid shall be punished in the same manner as the like offence would be punishable under the beforementioned Act of the nineteenth year of his present Majesty, directing two national penitentiary houses to be built, if such had been committed by or in respect of any person ordered to hard labour in either of the said two penitentiary houses therein mentioned.

Penalty on Persons escaping from Confinement, or assisting them to escape, &c.

IV. And be it further enacted, That the provision made in and by the said Act of the nineteenth year of his present Majesty for carrying on prosecutions for escapes attempts to escape breaches of prison and rescues, in the case of persons adjudged to either of the said penitentiary houses thereby directed to be built, shall extend and be applied to any prosecution for any escape attempt to escape breach of prison or rescue, in the case of any person who under this Act shall be adjudged to any of the said penitentiary houses.

Provision of 19 Geo. 3. c. 74. for Prosecutions for Escapes, &c. to extend to this Act.

V. 'And for better preventing all abuses as well in the common gaols 'as in the said houses of correction or other places of confinement to be 'used as penitentiary houses,' Be it further enacted, That the justices of the peace shall at every general or quarter sessions after the passing of this Act appoint two or more justices visitors of each of the said gaols and other places of confinement; and such visiting justices so respectively appointed shall either together or singly personally visit and inspect such prison at least three times in each quarter of a year and oftener if occasion shall require, and shall examine into the state of the buildings, the behaviour and conduct of the respective officers, and the treatment and condition of the prisoners, the amount of their earnings, and the expences attending such prison, and in matters of pressing necessity and within the powers of their commission as justices shall take cognizance thereon and proceed to regulate and redress the same; and at every general or quarter sessions of the peace the said visiting justices respectively shall make a report in writing of the state and condition of the same, and of all abuses which may occur to their observation therein; and the chairman of the said sessions is hereby required to call upon the said visitors for such report: and it shall be lawful for every justice of the peace for such county riding or division, of his own accord and with-

Visiting Justices to be appointed, &c.

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out being appointed a visitor, to enter into and to examine the same at such time or times and as often as he shall think fit, and if he shall discover any abuses therein he is hereby required to report them in writing at the next general or quarter sessions of the peace or adjourned sessions which shall be holden for such county riding or division; and when and as often as report of any abuses in the said place of confinement shall be made by the said visiting justices or either of them, or by any other justice of the peace for such county riding or division, the abuses so reported shall be taken into immediate consideration by the justices of the peace for such county riding or division at the general or quarter sessions or adjourned sessions at which such report shall be made, and they are hereby required to adopt the most effectual measures for inquiring into and rectifying such abuses as soon as the nature of the case will allow.

Any Justice may examine Houses of Confinement, &c.

Abuses to be rectified by the Justices in Session.

Bye Laws to be made agreeable to

VI. 'And for establishing and enforcing a proper police within the 'said gaols in and for the several counties ridings and divisions in '*England* and *Wales*,' Be it further enacted, That a body of rules orders and regulations as bye-laws for the government of the said gaols and of the prisoners to be therein confined shall be framed made and confirmed by such persons and in such manner as is appointed for county gaols in general by a statute of the thirty-second year of his late Majesty King *George* the Second, intituled "An Act for Relief of Debtors with respect to the Imprisonment of their Persons; and to oblige Debtors who shall continue in Execution in Prison beyond a certain Time, and for Sums not exceeding what are mentioned in the Act, to make Discovery of and deliver upon Oath their Estates for their Creditors' Benefit;" and in the same rules orders and regulations proper and particular directions shall be given for effectuating such separation and classing of prisoners as is directed by the aforesaid Act of the twenty-fourth year of his present Majesty, with such further separation and classing as shall be thought requisite, and also as well for enforcing amongst the prisoners of all descriptions cleanliness temperance and a decent and orderly behaviour as for securing a just and humane treatment of them by the gaoler and his servants, and all directions contained in the said Act respecting such rules and orders shall be exactly conformed to.

32 Geo. 2. c. 28.

Rules for classing of Prisoners, &c. as directed by 24 Geo. 3. c. 54. to be conformed to.

Offenders sentenced to Transportation after July 1, 1791, may be imprisoned and kept to hard Labour till transported, &c.

VII. And be it further enacted, That it may be lawful for the court by whom any offender shall be sentenced to transportation for crimes committed after the first day of *July* one thousand seven hundred and ninety-one, or in the case of any offender to whom his Majesty's royal mercy shall be extended on condition of transportation, or for any judge or justice of the court by or before whom such offender shall have been convicted, or any justice of the King's Bench Common Pleas or baron of the Exchequer being of the coif, or justice of oyer and terminer or general gaol delivery, or justices of the peace at their quarter session, to order and adjudge that such person shall be imprisoned and kept to hard labour in the common gaol in and for the county where such offender shall have been convicted, until he or she be transported or otherwise removed according to law, or until he or she by the expiration of the term of such sentence of transportation or otherwise shall be entitled to his or her liberty: Provided always and it is hereby expressly declared, That the time during which such offender shall so continue confined shall be reckoned in discharge or part of discharge or satisfaction of the term of his or her transportation.

Keepers of Gaols, &c. to make Returns as herein directed.

VIII. And be it further enacted, That the keeper of the common gaol and also the governors or keepers of the several places of confinement to be used as penitentiary houses in and for each county riding or division on the first day of every assizes great sessions or general gaol delivery shall make a just and true return in writing to the clerk of assizes or other clerk or proper officer of such court, specifying the number and size of the cells completed for the reception of prisoners, order to imprisonment and hard labour, the name of all and every the person or persons in his custody, the offences of which they have been guilty, the court before which each person was convicted, the sentence of the court if tried and

convicted before any court of record, or if committed by one or more of his Majesty's justices of the peace then the name of the justice or justices before whom such person or persons was or were convicted and the offence of which such person or persons was or were convicted, the age bodily estate and behaviour of every such convict.

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IX. And be it further enacted, That every such return before it is delivered into court shall be examined by one or more of the visiting justices to be appointed as herein-before directed, who is hereby required to sign such return and to annex thereto such observations as he shall think fit on every particular therein contained.

Visiting Justices to examine Returns, &c.

X. And be it further enacted, That as long as any person under sentence of transportation shall continue in the common gaol, the gaoler having custody of such offender shall and he is hereby required to separate such convict as far as conveniently may be from every person in his custody except prisoners convicted of felony.

Persons under Sentence of Transportation to be kept separate from other Prisoners except Felons.

XI. And be it further enacted, That in case the common gaol shall not be in a state to afford the means of separation according to the directions of the said Act of the twenty-fourth year of the reign of his present Majesty, intituled "An Act to explain and amend an Act made in the ninth eleventh and twelfth years of the reign of *William* the Third, the said gaoler shall and he is hereby required to report the insufficiency of such county gaol to the grand jury at the assizes great sessions or general gaol delivery next to be holden after the passing of this Act, and at every subsequent assize great session or general gaol delivery till such means of separation shall be effected.

Gaolers to report to the Grand Jury the Insufficiency of Gaols, not affording the Means of Separation according to 24 Geo. 3. c. 54.

XII. 'And whereas by an Act of the nineteenth year of the reign of King *Charles* the Second, intituled "An Act for Relief of poor Prisoners and setting them on Work," after reciting that there was not any sufficient provision made for the relief and setting on work of poor and needy persons committed to the common gaol for felony and other misdemeanors who many times perish before their trial, and the poor there living idly and unemployed become debauched and come forth instructed in the practice of thievery and lewdness, it is enacted, That the justices of the peace in their respective counties at any of their general sessions if they shall find it needful so to do may provide a stock of such materials as they find convenient for the setting poor prisoners on work in such manner and by such ways as other county charges may be levied and raised, and to pay and provide fit persons to oversee and set such persons on work and make such orders for accounts of and concerning the premises as shall by them be thought needful, and for punishment of neglects and other abuses and for bestowing the profits arising by the labour of the prisoners set on work for their relief which shall be duly observed, and may alter revoke or amend such their orders from time to time, provided that no parish be rated above six pence by the week towards the premises, having respect to the respective value of the several parishes: And whereas the provision of the said recited statute is very fit to be executed with respect to such prisoners therein described as shall be confined in the gaols with an extension thereof to all other prisoners inclined to take the benefit thereof, and also an increase of the sum limited by the said Act for defraying the expence of executing the same:' Be it therefore enacted, That the justices of the peace shall have authority to execute the said recited provision in the said last-mentioned Act for setting poor persons on work, as well in regard to such persons as are therein described as in favour of all other prisoners within the said gaols who may at any time be inclined and willing to work; and for that purpose are hereby authorised at a general or quarter sessions of the peace for the said county or at any adjournment thereof to direct the payment of such sums of money out of the county rate for the said county as they shall from time to time think fit to be expended in executing the provision of the said last-mentioned Act according to the extension thereof hereby made.

Provision of 19 Car. 2. c. 4. for setting Persons in Gaol to work, recited.

Justices may execute the recited Provision in favour of all Prisoners willing to work.

XIII. 'And whereas by an Act of the fourteenth year of the reign of 14 Eliz. c. 5.

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'Queen *Elizabeth*, intituled "An Act how Vagabonds shall be punished 'and the Poor relieved," as also by the above-mentioned Act of the 'thirty-second year of the reign of King *George* the Second some pro- 'vision is made for the relief of prisoners; but notwithstanding the 'humane purposes thereby intended the health of prisoners is frequently 'so affected by want of necessary food as to render them incapable of 'labour when released, and therefore it may be expedient to have a more 'extensive provision in favour of such poor prisoners as shall be confined 'in the said gaols and other places of confinement and have not any 'means of acquiring necessary sustenance:' Be it therefore enacted, That from and after the passing of this Act it shall be lawful for the justices of the peace at their general or quarter sessions or any adjournment thereof from time to time to order such sum or sums of money to be paid out of the county rate towards assisting such prisoners of every description as being confined within the said gaols or other places of confinement are not able to work, or being able cannot procure employment sufficient to sustain themselves by their industry, or who may not be otherwise provided for by virtue of any law or statute or of any custom or order, such food and raiment as the said justices shall from time to time think necessary for the support of health; and such money shall accordingly be applied in conformity to directions to be given by the said justices.

Justices in Session may order Assistance out of the County Rates to Prisoners who cannot work, &c.

XIV. And be it further enacted, That if the said visitors shall at any time observe or be satisfactorily informed of any extraordinary diligence or merit in any of the offenders under their inspection they shall report the same to the justices of oyer and terminer and gaol delivery or great sessions at their next or any subsequent session to be holden for the county in which such offender was convicted, in order that such justices may if they shall think proper recommend such offender to the royal mercy in such degree or upon such terms as to them shall seem meet, and if his Majesty shall thereupon be graciously pleased to shorten the duration of such offender's confinement such offender shall together with necessary clothing receive such sum of money for his or her immediate subsistence as the said visiting justices shall think proper, so as such sum shall not exceed twenty shillings nor be less than five shillings in case such offender shall have been confined for the space of one year, and so in proportion for any shorter term of confinement; and such sums of money as also the expence of such clothing shall be paid out of the county rate.

Visitors to report any extraordinary Diligence or Merit in Offenders to the Great Sessions, &c.

XV. 'And whereas a considerable part of the emolument of gaoler or 'keeper of the gaol has usually arisen from fees paid to him by debtors 'and other persons confined therein and from incidental charges made 'by him on the county rate on the dismission of prisoners and on the 'removal of transports; and by reason of neglect in regulating the said 'fees as directed by the aforesaid Act of the thirty-second year of King 'George the Second they are become oppressive and burthensome to 'poor prisoners, and such charges on the county rate are liable to frequent abuse:' Be it therefore enacted, That the justices of peace assembled at their general or quarter sessions or at some special adjournment thereof as aforesaid shall and they are hereby required within twelve months after the passing of this Act to regulate and settle a table of fees and rates to be taken by the gaoler or keeper of the gaols or other places of confinement as aforesaid; and the said justices so assembled as aforesaid are hereby authorised and empowered from time to time to alter vary or totally disallow of all or any such charges and fees and to order a copy of the table of fees so regulated to be hung up in the court of assize and quarter sessions for the county riding or division, and another copy thereof to be transmitted to the said gaoler or keeper who shall cause the same to be hung up in some conspicuous place within the gaols or penitentiary houses; and all orders and directions contained in the said last-mentioned Act respecting the table of fees and rates to be taken by gaolers or keepers of prisons shall be conformed to as if the same were herein particularly enacted and repeated; and by way of recompence for any diminution of

Justices in Session to settle a Table of Fees for Gaolers, &c.

emolument in the office of gaoler or keeper of the said gaols or penitentiary houses by means of any such regulation of fees or by the disallowing any such charges on the county rate or any part thereof as well as for and in lieu of all or any part of the profits and emoluments that have usually arisen from the office of gaoler or keeper, the said justices so assembled as aforesaid are hereby further authorised and empowered to grant such salaries and allowances to the said gaoler or keeper and to his assistants as to the said justices shall appear reasonable and satisfactory, and from time to time to alter and vary the same as they shall think fit; and to order and direct the said salaries and allowances to be paid out of the county rate by the treasurer of the county riding or division upon an order or orders signed by the chairman of any general or quarter sessions of the peace held for the county riding or division, specifying the salary and allowance so directed to be paid: Provided always, That no such regulation of fees and charges or any subsequent alteration thereof or any variation in such salaries and allowances so granted that may in anywise affect the sheriff or his officers shall take place or have effect pending the continuance in office of the sheriff who shall be actually in commission at the time of making such regulation or any alteration thereof, or of varying such salaries and allowances, unless such sheriff shall by writing under his hand consent thereto; and the said justices in granting to any gaoler or keeper any such salary or allowance may stipulate as a condition of the payment thereof that he do regularly observe and keep the rules and orders of the gaol: And it is hereby further expressly provided, That no such salary and allowance shall be paid out of such county rate to any woman or other person incapable of executing the office in person who may at any time be appointed gaoler or keeper of such gaol.

and may grant Salaries where Emoluments are diminished.

Regulation of Fees affecting the Sheriff, to be consented to by him or not to take place during his Continuance in Office.

Justices may stipulate with Gaolers for Payment of Salaries, which are not to be given to Persons incapable of executing the Office.

XVI. And be it further enacted, That all fines forfeitures and penalties inflicted by this Act or which shall be inflicted by virtue of any rule or order to be made in pursuance thereof, the levying and recovering of which are not particularly herein directed, shall be levied by distress and sale of the offender's goods and chattels by warrant under the hands and seals of two justices of the peace, who are hereby authorised to hear and examine witnesses on oath or affirmation and determine the same; and all such respective fines forfeitures and penalties by this Act imposed and inflicted or authorised to be imposed and inflicted, the application whereof is not herein-before particularly directed, shall be paid from time to time to the treasurer of the county riding or division for the time being, and shall be applied and disposed of for the purposes of this Act and to or for no other use or purpose whatsoever; and the overplus of the money raised by such sale after deducting the penalty and the expences of the distress and sale shall be rendered to the owner of the goods so distrained and sold; and for want of sufficient distress the offenders shall be committed by such justice to some prison for the said county riding or division for such term not exceeding three calendar months nor less than one calendar month as such justices shall think proper.

How Penalties are to be recovered and applied.

Offenders may be committed to Prison for Want of Distress.

XVII. And for the more easy and speedy conviction of offenders against this Act, Be it further enacted, That all and every the justice or justices of the peace before whom any person or persons shall be convicted of any offence against this Act shall and may cause the conviction to be drawn up in the following form of words or in any other form of words to the same effect as the case shall happen, *videlicet:*

'BE it Remembered, That on in the year of our Lord one thousand seven hundred A. B. is convicted before me C. D. one of his Majesty's Justices of the Peace for the county of [*specifying the offence and the time and place when and where the same was committed, as the case shall be.*] Given under my hand and seal the day and year first above mentioned.'

Form of Conviction.

XVIII. Provided always and be it further enacted, That if any person shall think himself or herself aggrieved by any thing done in pursuance

Persons aggrieved may appeal to the Quarter Sessions, &c.

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of this Act and for which no particular method of relief hath been already appointed, such person may appeal to the justices of the peace at any general or quarter sessions of the peace within four calendar months after the cause of such complaint shall have arisen; such appellant first giving or causing to be given seven clear days' notice at least in writing of his or her intention to bring such appeal and of the matter thereof to the justice or justices of the peace before whom the conviction shall have been had and to the clerk of the peace for the county riding or division in which such offence shall be tried, and within two days after such notice enter into recognisance before some justice of the peace for the said county with two sufficient sureties conditioned to try such appeal and abide the order of and to pay such costs as shall be awarded by the justices at such quarter session; and the justices at such session upon due proof of such notice being given as aforesaid and of the entering into such recognisance shall hear and finally determine the causes and matters of such appeal in a summary way and award such costs to the parties appealing or appealed against as they the said justices shall think proper; and the determination of such quarter session shall be final binding and conclusive to all intents and purposes.

No Proceedings to be quashed for Want of Form, &c.

XIX. And be it further enacted, That no order made touching or concerning any of the matters in this Act contained or any proceedings to be had touching the conviction or convictions of any offender or offenders against this Act shall be quashed for want of form or be removed or removeable by *certiorari* or any other writ or process whatsoever into any of his Majesty's courts of record at *Westminster;* and that where any distress shall be made for any sum or sums of money to be levied by virtue of this Act, the distress itself shall not be deemed to be unlawful nor the party or parties making the same be deemed a trespasser or trespassers on account of any defect or want of form in the summons conviction warrant of distress or other proceedings relating thereto, nor shall such party or parties be deemed a trespasser or trespassers *ab initio* on account of any irregularity which shall be afterwards done by the party or parties distraining; but the person or persons aggrieved by such irregularity shall and may recover full satisfaction for the special damage (if any) in an action upon the case; but no plaintiff or plaintiffs shall recover in any action for such irregularity as aforesaid if tender of sufficient amends hath been made by or on behalf of the party distraining before such action brought.

General Issue.

XX. And be it further enacted, That if any suit or action shall be prosecuted against any person or persons for any thing done in pursuance of this Act, such person or persons may plead the general issue and give this Act or the special matter in evidence at any trial to be had thereupon, and that the same was done by authority of this Act; and if a verdict shall pass for the defendant or defendants or the plaintiff or plaintiffs shall become nonsuit or discontinue his her or their action or actions after issue joined, or if upon demurrer or otherwise judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall recover treble costs and have the like remedy for the same as any defendant or defendants hath or have by law in other cases; and though a verdict shall be given for any plaintiff in any such action or suit as aforesaid, such plaintiff shall not have costs against the defendant unless the judge before whom the trial shall be shall certify his approbation of the action and of the verdict obtained thereupon.

Treble Costs.

Limitation of Actions.

XXI. And be it further enacted, That all actions suits and prosecutions to be commenced against any person or persons for any thing done in pursuance of this Act shall be laid and tried in the county or place where the facts were committed and shall be commenced within six calendar months after the fact committed and not otherwise.

[No. XXVII.] 52 George III. c. 160.—An Act to enable Justices of the Peace to order Parochial Relief to Pri-

soners confined under Mesne Process for Debt in such Gaols as are not County Gaols.—[29*th July* 1812.]

No. XXVII.
52 Geo. III. c. 160.

52 Geo. III. c. 160.

'WHEREAS great distress is suffered by poor persons confined under mesne process for debt in such gaols as are not county gaols in 'consequence of their not receiving any allowance whereon to subsist 'during the time of such confinement:' May it therefore please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That it shall be lawful for any one justice of the peace acting for the county riding or division wherein any gaol (which is not a county gaol) is situated to order the overseers of the poor of the parish township or place wherein any such gaol (which is not a county gaol) shall be situated to relieve any poor person who shall be confined in such gaol under mesne process for debt, and who shall appear to such justice to be unable to support himself or herself and who shall have applied for relief to such overseers as aforesaid.

Justice to order Parochial Relief to Debtors in Gaols not County Gaols.

II. Provided always and be it further enacted, That the sum to be given for the relief of any such poor person shall not exceed six pence *per diem* during the time of his or her confinement in such gaol under mesne process for debt.

Sum limited.

III. And be it further enacted, That the overseers of the poor of any such parish township or place to whom any such application for relief shall be made as aforesaid, if they shall doubt whether such poor person is legally settled in such parish township or place, shall cause him or her to be examined upon oath before one or more justice or justices of the peace touching his or her last legal settlement, upon which examination it shall be lawful for justices to make an order for the removal of such poor person to the place of his last legal settlement and to suspend the execution of such order of removal during the time of such person being confined in such gaol under such mesne process, which suspension of the same shall be indorsed on the said order and signed by such justices, and the subsequent permission to execute the same shall be also indorsed on the said order and signed by such justices or by any other two justices of the peace acting for the same county riding or division.

Legal Settlement of Debtor ascertained.

Order of Removal suspended while Debtor imprisoned.

IV. Provided always and be it enacted, That a copy of the order of removal and of the order for suspending the execution of the same as aforesaid shall, as soon as may be after the making thereof respectively, be served upon the overseers of the poor of the parish township or place in which such poor person shall by such order of removal be adjudged to be legally settled.

Served on Overseers of the Poor of Parish.

V. And be it further enacted, That although such poor person shall not have been actually removed in pursuance of such order of removal as aforesaid, it shall be lawful for any justice of the peace to direct the overseers of the poor of the parish township or place in which such pauper is adjudged to be settled to repay to the overseers of the poor of the parish township or place wherein such gaol shall be situated all the charges proved upon oath of any such overseers of the parish township or place where the gaol is situated to have been incurred in granting relief to such pauper during the time of his confinement and the suspension of such order, not exceeding six pence *per diem;* and if the overseers of the parish township or place to which such order of removal shall be made or any or either of them shall refuse or neglect to pay any such sum so advanced as aforesaid within twenty-one days after demand thereof, and shall not within the same time give notice of appeal as hereinafter mentioned, it shall be lawful for one justice of the peace by warrant under his hand and seal to cause the money so directed to be paid as aforesaid to be levied by distress and sale of the goods and chattels of the person or persons so refusing or neglecting to pay the same, and also such costs attending the same, not exceeding forty shillings, as such justice shall direct; and if the parish township or place to which the removal was ordered to be made be without the jurisdiction of the justice of

Overseers to repay Expence attending Pauper.

In case of Refusal, Money advanced levied by Distress.

No. XXVII. 52 Geo. III. c. 160.

peace issuing the warrant, then such warrant shall be transmitted to any justice of the peace having jurisdiction within such parish township or place as aforesaid, who upon receipt thereof is hereby authorised and required to indorse the same for execution: Provided nevertheless, that if the sum so ordered to be paid on account of such costs and charges exceed the sum of five pounds, the party or parties aggrieved by such order may appeal to the next general quarter sessions for the county riding or division in which such gaol is situated against the same as they may do against an order for the removal of poor persons by any law now in being, and if the court of quarter sessions shall be of opinion that the sum so awarded be more than of right ought to have been directed to be paid, such court may and is hereby directed to strike out the sum contained in the said order and insert the sum which in the judgment of the said court ought to be paid, and in every such case the said court of quarter sessions shall direct that the said order so amended shall be carried into execution by the said justices by whom the order was originally made or either of them by such other justice or justices as the said court shall direct.

Appeal.

Appeal.

VI. Provided always and be it further enacted, That it shall be lawful for the overseers of the poor of the parish township or place wherein such poor person shall by such order of removal be adjudged to be legally settled to appeal against such order to the next general quarter sessions of the peace for the county riding or division in which such gaol is situated, holden after the service of the copy of such order of removal, in case such copy shall have been served upon such overseers twenty-one days before the holding of such quarter sessions, but in case the same shall not be served twenty-one days before the holding of such next general quarter sessions, then the appeal may be to the next succeeding general quarter sessions holden for the said county riding or division, and upon such appeal the like proceedings may be had as are observed in other cases of appeals against orders of removal of poor persons by any law now in being: Provided always, That in case such order of removal and suspension is not appealed against in manner aforesaid, or if upon appeal such order shall be confirmed, such poor person shall be deemed and taken to be legally settled in the parish township or place in which he shall by such order of removal be adjudged to be legally settled.

Proviso.

In case Pauper have no legal Settlement in England or Wales, Allowance paid out of County Rate.

VII. And be it further enacted, That in case any poor person applying for relief under the provisions of this Act shall upon his examination as to his last legal settlement be found not to be legally settled in any parish township or place within *England* and *Wales*, it shall be lawful for any one justice of the peace to order the overseers of the poor of the parish township or place wherein the gaol is situated (in which such poor person shall be confined under mesne process for debt) to relieve such poor person with a sum not exceeding six pence *per diem* out of the funds in their hands applicable to the relief of the poor, which sum shall be reimbursed to the overseers of the poor of the said parish township or place for the use of such funds out of the county rate, by the treasurer of the county riding or division in which such parish township or place shall be situated at the expiration of the confinement of such poor person upon such mesne process as aforesaid.

[No. XXVIII.] 55 George III. c. 48.—An Act for enlarging the Powers of two Acts of his present Majesty, for providing Clergymen to officiate in Gaols and Houses of Correction within *England* and *Wales*.—[12*th May* 1815.]

55 George III. c. 48.
13 Geo. 3. c. 58.

WHEREAS by an Act passed in the thirteenth year of the reign of his present Majesty, intituled, "An Act for providing Clergymen to officiate in Gaols within that part of *Great Britain* called *England*," the justices of the peace or the major part of them assembled at the

quarter sessions held for any county riding or division within that part of *Great Britain* called *England* and the principality of *Wales* are authorised and empowered to settle and ascertain how many clergymen should by them be deemed necessary to be employed in performing religious duties according to the rites of the church of *England*, in the several gaols within their respective jurisdictions, and to settle and ascertain what duty should be performed and what salary should be paid to every such clergyman not exceeding fifty pounds yearly and every year: And whereas by the appointment of clergymen to officiate under the provisions of the said Act the beneficial purposes before mentioned have been carried into execution in many counties within *England* and *Wales*: And whereas on account of the unremitting attention which such clergymen are required to give in the discharge of their duty it is expedient that the salaries allowed by the justices should be increased: And whereas by another Act passed in the twenty-second year of the reign of his present Majesty, intituled, "An Act for amending and rendering more effectual the Laws in being relative to Houses of Correction," it is enacted, That the justices of the peace at their general quarter sessions may if they think fit appoint a minister of the church of *England*, residing in or near the place where every such house of correction shall be situate, to perform divine service there every *Sunday*: And whereas it is expedient for the reformation and amendment of persons who may be confined in such houses of correction that greater and more frequent attention should be paid to their moral and religious instruction than is provided for by the said Act: May it therefore please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the twenty-fourth day of *June* one thousand eight hundred and fifteen it shall and may be lawful to and for the justices of the peace or the major part of them assembled at the quarter sessions to be holden for any county riding or division within that part of the united kingdom called *England* and the principality of *Wales*, and at the annual general session in the county palatine of *Lancaster*, and they are hereby authorised and empowered to increase the salaries granted by the said first recited Act to be paid to the clergymen therein mentioned to any sum not exceeding one hundred pounds yearly and every year under the regulations and provisions contained in the said recited Act.

22 Geo. 3. c. 64.

Quarter Sessions may increase the Salaries of Clergymen officiating in Gaols.

II. And be it enacted by the authority aforesaid, That all the provisions of the said recited Act of the thirteenth year of his present Majesty's reign, intituled "An Act for providing Clergymen to officiate in Gaols within that part of *Great Britain* called *England*," shall be applicable to houses of correction in as full and ample a manner as if they had been specifically named therein: Provided always nevertheless, that no salary to be assigned to any clergyman for officiating in any such house of correction shall exceed fifty pounds a year.

Provisions of 13 Geo. 3. c. 58. applicable to Houses of Correction.

III. Provided always and be it further enacted, That every clergyman who shall be employed with a salary under this Act or either of the Acts above recited, in order to entitle himself to receive the same shall keep a journal in a book to be provided for that purpose in the gaol or house of correction in which he shall be so employed, in which journal he shall enter the times of his attendance at such gaol or house of correction on the performance of his duty with any observations which may occur to him in the execution thereof; and such journal shall regularly be laid before the justices of the peace having jurisdiction over the said gaol or house of correction for their inspection at every quarter sessions at which such justices shall be assembled, and shall be signed by the chairman of the said sessions in proof of the same having been there produced.

Clergymen to keep a Journal.

IV. And be it further enacted, That the said justices of the peace or the major part of them so assembled at their general quarter sessions may, if they should see fit, unite the offices of clergymen to gaols and houses of correction, by appointing one clergyman to the performance of the religious duties of both: Provided always, that the amount to be paid

Offices of Clergymen to Gaols and Houses of Correction may be united.

No. XXVIII.
55 Geo. III. c. 48.

out of the county rates or other public money shall not in such case exceed the sum of one hundred and twenty pounds.

Clergymen to have a Licence from the Bishop of the Diocese.

V. Provided always and be it further enacted, That from and after the said twenty-fourth day of *June* one thousand eight hundred and fifteen no clergyman who shall be appointed to officiate in any gaol or house of correction under the authority of the said Acts or of this Act shall so officiate until he shall have obtained a licence for that purpose from the bishop of the diocese wherein such gaol or house of correction shall be situate, and during so long time only as such licence shall remain in force; and when any clergyman shall be so appointed, the clerk of the peace for the county riding or division wherein any such appointment shall be made shall, within one month after such appointment shall have been made, transmit a copy thereof to the bishop of such diocese.

[No. XXIX.] 55 George III. c. 50.—An Act for the Abolition of Gaol and other Fees connected with the Gaols in *England*.—[12*th May* 1815.]

55 George III. c. 50.

All Fees and Gratuities payable at Gaols and Bridewells shall be abolished.

WHEREAS it is expedient for the better government of gaols and bridewells in *England* that all fees and gratuities payable at the same for the entrance commitment or discharge of any prisoner should be abolished; Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the first day of *October* next all fees and gratuities paid or payable by any prisoner on the entrance commitment or discharge to or from prison shall absolutely cease, and the same are hereby abolished and determined.

Quarter Sessions to make Allowances to Gaolers, &c.

II. And whereas in some places such fees and gratuities as aforesaid are payable to the gaoler or his servants and are to him or them as a salary; Be it enacted, That it may be lawful for the justices of the peace for any county city or town assembled in general or quarter sessions to make such allowances to the aforesaid gaoler or servants as may to them seem fit in the way of salary or compensation for the fees or gratuities payable by prisoners now abolished by this Act.

Allowances to be paid out of the County Rates, &c.

III. And be it enacted, That the said justices of the peace for any county city or town may direct the said allowances to be paid out of any county rate city rate or town rate now by law authorised to be made and levied.

Every Prisoner charged with Felony or Misdemeanor, and acquitted, to be discharged without Payment of any Fee, &c.

IV. And whereas it is customary for clerks of the assize clerks of the peace clerks of the court or their deputies or other officers in the courts of assize or session to demand and take from persons indicted divers sums in the way of fees; Be it enacted, That every prisoner who now is or hereafter shall be charged with or indicted for any felony or as an accessary thereto, or with or for any misdemeanor before any court holding criminal jurisdiction within that part of the United Kingdom of *Great Britain* and *Ireland* called *England*, against whom no bill of indictment shall be found by the grand jury, or who on his her or their trial shall be acquitted or who shall be discharged by proclamation for want of prosecution, shall be immediately set at large without payment of any fee or sum of money for or in respect of his her or their discharge to any person or persons whomsoever; except only in such cases wherein the prisoner shall have been charged and shall then stand charged with any process authorising the detention of such prisoner: Provided always that if it shall happen that any prisoner who shall so stand charged with any process authorising his detention as aforesaid shall have been discharged in supposed obedience to this Act by reason that the sheriff or other officer entitled to have detained him was at the time of such his discharge ignorant that there was any such charge against him, it shall in such case be lawful for such sheriff or other officer on receiving information of such charge presently to retake the prisoner so discharged as aforesaid, and thereupon forthwith to detain him in custody upon such

charge in such manner as the said sheriff or other officer might have done if such prisoner had not been set at large; and that upon his being so retaken the said prisoner shall be deemed for the purpose of that suit to have been in custody continually from the time when he so first stood charged as aforesaid.

All Fees usually paid to Clerks of the Court, Assize, &c. to be abolished.

V. And be it enacted by the authority aforesaid, That all such fees as have been usually paid or payable to the several clerks of assize and clerks of the peace clerks of the court or their deputies in that part of the United Kingdom of *Great Britain* and *Ireland* called *England* in any of the cases aforesaid, shall absolutely cease and the same are hereby abolished and determined; and from and after the passing of this Act no clerk of assize clerk of the peace clerk of the court or their deputies shall ask demand take or receive any sum or sums of money from any of the said prisoners as fees for or in respect of his her or their discharge.

County Treasurers to pay Allowances for Places not usually assessed to the County at large.

VI. And be it enacted by the authority aforesaid, That in lieu and satisfaction of such lawful fees so abolished as aforesaid the treasurers or other proper officers of the several counties in *England* or of such districts hundreds ridings or divisions of a county as are not usually assessed to the county at large, and of such cities towns corporate cinque ports liberties franchises and places as do not pay to the rates of the several counties in which they are respectively situated, shall on receiving a certificate signed by one or more judge or justice of the peace before whom such prisoner shall have been discharged as aforesaid (which certificate the judge or justice is hereby required to give) pay out of the rates of such county or of such district hundred riding or division or out of the public stock of such city town corporate cinque port liberty franchise or place such lawful sum as has been usually paid upon that occasion for every prisoner discharged as aforesaid to such clerk of assize clerk of the peace or clerk of the court or their respective deputies; which several sums so paid in pursuance of this Act shall be respectively allowed to the said treasurer and officers by the justices before whom their accounts shall be passed.

Indemnification for Fees to Clerks of the Peace.

VII. And be it enacted, That each and every clerk of the peace or his or their deputy or deputies and all and every officer who shall claim any fees or indemnification for the same by virtue of any of the provisions herein-before contained for and in respect of any such prisoners, shall deliver at each and every session of the peace or at some adjournment thereof an account of all fees so due to him or for which he shall claim any indemnification; which account shall be verified upon oath in court before the chairman of such sessions.

Clerks of Assize to deliver an Account of Fees.

VIII. And be it further enacted, That the clerks of assize shall at each and every assize to be holden deliver in to the judge of the assize who shall sit for the trial of such prisoners an account of such fees as shall be due to him for and in respect of such prisoners; which account shall be verified upon oath before such judge to whom such account shall be delivered.

Punishment of Officers for exacting Fees in future.

IX. And be it enacted, That from and after the passing of this Act any clerk of assize clerk of the peace clerk of the court or their deputies or other officers exacting such fees shall be rendered incapable of holding his or their offices and be guilty of a misdemeanor.

Liberates to Debtors to be granted free of Expence, and Compensation made to Sheriffs for the same.

X. And whereas it has been customary in some places for the sheriff or under sheriff to demand for the liberate granted to any debtor on his discharge a free gratuity; Be it enacted, That such liberate shall be granted to such debtor free of all expences; and that it shall be in the power of the justices of the peace for each county city or town assembled in quarter session, subject however to the approbation of the judges of assize, to make such compensation to the sheriff or under sheriff out of the county city or town rate as shall to them seem fit.

How Allowances shall be raised for Places which do not contribute to County Rates.

XI. And whereas there are several cities towns corporate and places within this kingdom which do not contribute to the payment of any county rate and have no town rate or public stock; and doubts may

No. XXIX.
55 Geo. III. c. 50.

arise whether such cities towns corporate and places can be legally rated and assessed towards the payment of the salaries allowances and compensations in lieu of such fees and gratuities; Be it enacted, That in all such cases the salaries allowances and compensations in lieu of fees and gratuities herein-before directed to be made, shall be raised levied collected and paid within such cities towns corporate and places by a separate rate and assessment to be made by the churchwardens and overseers of the poor of the several parishes and precincts within such cities towns corporate and places, and by such and the like ways methods and means as the rates for the relief of the poor are can or may be raised levied and collected in such cities towns corporate and places.

Allowances in certain Places to be paid out of the Poor's Rates.

XII. And whereas it may happen that the sums of money to be raised in the said cities towns corporate and places or some or one of them, to answer and pay such salaries allowances and compensations herein-before directed to be made in lieu of fees and gratuities by this Act abolished, may be so small that it may not be convenient to make an equal separate rate and assessment for the same upon the said parishes and precincts within such cities towns corporate and places; Be it enacted, That in such last-mentioned case and when and as often as the same shall happen the salaries allowances and compensations shall and may by order of the said judge or judges or justices in sessions assembled as aforesaid be paid out of the monies from time to time raised for the relief of the poor in the said several cities towns corporate and places; and the treasurers or persons from time to time having the management of the said monies raised for the relief of the poor in the same cities towns corporate and places respectively are hereby authorised and required to pay the said sums of money so ordered to be paid by the said judge or judges or justices of the said last-mentioned monies when and as often as the same shall be so ordered: Provided always that the order for such allowances as may be made by the justices of the peace assembled in general or quarter sessions be approved by the judge or judges of assize on the first circuit ensuing after such warrant shall have been made out by the justices of peace assembled in general or quarter session for any county city or town, and that such order shall not be deemed or taken as a legal order without such warrant from the judge or judges of assize: Provided always that should there be more parishes than one in the same district the payments are to be made and levied in such rates and proportions as the respective parishes pay to the poor rate.

Punishment of Gaolers for exacting any Fee or Gratuity from Prisoners.

XIII. And be it enacted, That any gaoler who shall from and after the first day of *October* next exact from any prisoner any fee or gratuity for or on account of the entrance commitment or discharge of such prisoner, or who shall detain any prisoner in custody for non-payment of any fee or gratuity, shall be rendered incapable of holding his office, be guilty of a misdemeanor and be punished by fine and imprisonment.

Not to extend to certain Gaols.

XIV. Provided always and be it enacted, That nothing in this Act contained shall be construed to extend to the *King's Bench* Prison his Majesty's Prison of the *Fleet*, the *Marshalsea* and *Palace* Courts.

Act may be altered this Session.

XV. Provided always and be it enacted, That this Act may be altered amended or repealed within this present session of Parliament.

[No. XXX.] 56 Geo. III. c. 116.—An Act to explain and amend an Act, passed in the Fifty-fifth Year of the Reign of his present Majesty, intituled *An Act for the Abolition of Gaol and other Fees connected with the Gaols in* England.—[1*st July* 1816.]

55 Geo. III. c. 116.

WHEREAS an Act passed in the fifty-fifth year of the reign of his present Majesty, intituled *An Act for the Abolition of Gaol and other Fees connected with the Gaols in* England: And whereas doubts have arisen whether the judges of assize have power under and by virtue of the said Act to grant to certain officers, who before the passing of the same were entitled to certain fees abolished by the said Act, a certificate for the

purpose of enabling the said officers to receive compensation for such fees so abolished as aforesaid: And whereas it is expedient that such doubts should be removed; Be it therefore declared and enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act it shall and may be lawful for the judges of assize who have gone the several circuits since the passing of the said Act as well as future judges of assize respectively to grant such certificate as is required by the said Act; and the said judges of assize are hereby authorised and required to receive from every such officer, as previous to the passing of the said Act was lawfully entitled to any fees abolished by the said Act, an account in writing of what they severally claim to be due to them for such abolished fees, which account shall be verified upon the oath of the party claiming the same, in like manner as is provided by the said Act in respect to the clerks of assize and clerks of the peace.

No. XXX. 56 Geo. III. c. 116.

Judges of Assize may grant Certificate to certain Officers to receive Compensation for abolished Fees;

II. And be it further enacted, That the amount of every such account after being verified as aforesaid shall be paid in the same manner as is provided in and by the said Act in respect to the clerks of assize and clerks of the peace.

to be paid in same Manner as is provided by recited Act.

III. And whereas doubts have arisen whether the said Act extends to prisoners confined in gaols and prisons under civil process for debt only, and whether prisoners confined in the gaols and prisons of liberties and franchises under civil process for debt and the gaolers and keepers of such gaols and prisons are within the meaning and purview of the said recited Act: And whereas it is expedient that such doubts should be removed; Be it therefore further declared and enacted, That the said recited Act and the provisions therein contained shall be deemed and construed to extend and shall extend to all prisoners as well civil as criminal whether confined for debt or crime in any of the prisons in *England* except as to the said prisons in the said Act excepted; and that the gaolers and keepers of all such gaols and prisons except as aforesaid and their servants, as well within liberties as without, shall have compensation for their fees or gratuities abolished by the said recited Act or this Act as in the said recited Act is mentioned.

Recited Act to extend to Prisoners for Debt.

IV. And be it enacted, That the allowances made to the bodar or keeper of the prison of *Dover Castle* in lieu of fees and gratuities paid or payable by any prisoner on his or her entrance commitment or discharge to or from such prison, and also the compensation to the registrar of the Cinque Ports and clerk of *Dover Castle* for the *liberati* granted to any debtor on his or her discharge, shall be paid out of the funds raised by virtue of an Act of Parliament passed in the fifty-fourth year of the reign of his present Majesty, intituled *An Act for the Relief of Poor Debtors and others confined within the Gaol of* Dover Castle: Provided always that such allowance and compensation shall be verified allowed and paid in the same manner as the relief to such poor debtors and payment for the same is directed to be allowed verified and paid by the said recited Act.

Allowances to the Gaoler of Dover Castle Prison, &c. how to be paid.

54 Geo. 3. c. 97.

[No. XXXI.] 58 Geo. III. c. 32.—An Act to amend so much of an Act of the Fifty-fifth Year of his present Majesty, as relates to the Salaries of Clergymen officiating as Chaplains in Houses of Correction.—[23*d* *May* 1818.]

WHEREAS by an Act passed in the fifty-fifth year of his present Majesty's reign, intituled *An Act for enlarging the Powers of two Acts of his present Majesty for providing Clergymen to officiate as Chaplains in Gaols and Houses of Correction within* England *and* Wales, it was enacted, That no salary to be assigned to any clergyman for officiating in any house of correction should exceed fifty pounds a year: And whereas it has been found impossible in divers cases to provide clergymen who are fit and willing to undertake the duties of the said office of chaplain to

58 George III. c. 32.

55 Geo. 3. c. 48.

No. XXXI. 58 Geo. III. c. 32.

houses of correction for so small a salary: And whereas it is therefore expedient that powers should be given to the justices of the peace in their quarter sessions to assign a larger salary to clergymen officiating in such capacity: Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That it shall and may be lawful for the justices of the peace of the several counties of *England* and *Wales* in their quarter sessions respectively to assign any larger salary than the said salary of fifty pounds a year to clergymen officiating as chaplains in houses of correction: Provided always, that in no case such salary shall exceed the sum of one hundred pounds a year.

Justices in Sessions may assign a larger Salary not to exceed 100*l.* a Year;

II. And be it further enacted, That should the said justices of the peace or the major part of them assembled at their general quarter sessions think proper, in pursuance of the Act of the fifty-fifth year of his present Majesty, to appoint one person to officiate as chaplain to the gaol and house of correction, that they be authorised to allow such chaplain a salary not exceeding one hundred and fifty pounds.

and not exceeding 150*l.* to Chaplains of Gaols and Houses of Correction.

[No. XXXII.] 59 Geo. III. c. 61.—An Act to enable Counties and Stewartries in *Scotland* to give Aid to Royal Burghs situated therein, for the Purpose of Improving, Enlarging, or Rebuilding their Gaols; or to Improve, Enlarge, or Rebuild Common Gaols of Counties and Stewartries which are not the Gaols of Royal Burghs.—[2*d July* 1819.]

59 Geo. III. c. 61.

WHEREAS the gaols in the different royal burghs in *Scotland* are in general insecure and incommodious: And whereas although by the law of *Scotland* burghs are bound to provide and maintain proper gaols, yet the means of many of such burghs are insufficient for the necessary improvement thereof; wherefore it is expedient that counties and stewartries in *Scotland* should be enabled to contribute towards the expence that may be required for improving enlarging or rebuilding the gaols of the royal burghs of *Scotland* within the same: And whereas it is expedient that when common gaols of counties and stewartries in *Scotland* are not the gaols of royal burghs such counties and stewartries should be enabled to improve enlarge or rebuild such common gaols: May it therefore please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That if the magistrates and council of any royal burgh shall deem it expedient to solicit aid and assistance from the county or stewartry in which the same shall be situated, towards improving enlarging or rebuilding the the gaol of any such royal burgh, they shall transmit to the clerk of supply of such county or stewartry a proposal in writing for the consideration of the commissioners of supply of such county or stewartry.

Burghs may solicit Aid from County for Gaols.

II. And be it enacted, That the said clerk of supply upon receiving such proposal shall transmit it without delay to the convener, who shall call a meeting of the commissioners of supply of such county or stewartry for the consideration of the said proposal by public advertisement in one or more newspapers published in the said county or stewartry, or if no newspaper is published therein, by advertisement in such newspaper or newspapers as the convener usually intimates public county meetings in for the said county or stewarty, of which meeting six weeks previous notice at the least shall be given.

Proposal of Magistrates to be submitted to Commissioners of Supply.

III. And be it further enacted, That no person shall be entitled to vote at any meeting to be held under this Act who shall not be a commissioner of supply possessed of the *dominium utile* of lands valued at one hundred pounds *Scots* or the factor of an absent commissioner of

Qualification of Voters.

supply so qualified, duly authorised to attend and vote for his constituent at such meeting.

IV. And be it enacted, That it shall and may be lawful for such commissioners of supply or a majority of them at any such meeting if they shall think fit before coming to a final resolution upon any such proposal, to appoint a Committee of their number to confer with the magistrates and town council making such proposals, and for the purpose of arranging with them all the details that may be necessary to enable the commissioners of supply to satisfy themselves as to the propriety of affording aid towards the purpose solicited, and for settling the plan or plans necessary for the execution of the work, and for ascertaining the expence thereof.

Commissioners of Supply may appoint a Committee of their Number to confer with Magistrates.

V. And be it enacted, That after being satisfied as to the propriety of affording such aid, and also as to all such details as may be necessary for settling the plan of the work and the expence thereof, it shall and may be lawful for the said commissioners of supply at any meeting specially called for that purpose, or a majority of them then assembled, to resolve to give such aid as they may think fit towards improving enlarging or rebuilding any such gaol.

Commissioners of Supply may resolve to give Aid.

VI. And be it enacted, That a copy of the resolutions of such meeting, signed by the clerk of supply of such county or stewartry, shall thereupon be transmitted to the magistrates and town council of the burgh by whom such proposal shall have been made; and if within fourteen days after such resolutions shall have been received by such magistrates and town council they shall signify their willingness to such clerk of supply to proceed to improve enlarge or rebuild their gaol in the manner that shall have been expressed in such resolutions, then the commissioners of supply of such county or stewarty shall be and become bound to raise the money they shall have agreed to contribute for the purpose specified in such resolutions so transmitted as aforesaid by an assessment, which they are hereby authorised to make in the manner directed by this Act.

Resolution of Commissioners of Supply to be transmitted to Magistrates, and, upon being finally settled, Assessment to be made.

VII. And be it enacted, That such assessment shall be made as follows; namely, upon all lands and heritages contained in the valuation books of such county or stewartry according to the valued rent of such lands and heritages, and upon all inhabited houses within such county or stewartry of the annual value of five pounds sterling or upwards according to such annual value; that is to say, for every five pounds *Scots* that shall be assessed on every one hundred pounds *Scots* of the valued rent of lands and heritages there shall be assessed the sum of one penny sterling on every pound sterling of the annual value according to which such inhabited houses shall be assessed for the house tax; but it is hereby expressly provided and declared, that inhabited houses though of the annual value of five pounds sterling or upwards, erected or to be erected on lands valued in the valuation books of the said county or stewartry and chargeable with assessment imposed by this Act on lands and heritages so valued to a greater amount than the sum for which the said inhabited houses would be chargeable under this Act, shall not also be liable to the assessment hereby imposed on inhabited houses of the aforesaid value.

Relative Amount of Assessment on Lands and Houses.

VIII. And be it further enacted, That such assessment shall be made in the proportions aforesaid by such commissioners of supply at a meeting to be held for that purpose, and shall be directed to be levied at such times as shall be specified in the order making the assessment, so that the sums resolved to be levied may be collected within the period requisite for accomplishing the purposes for which such aid or assistance shall have been resolved to be given.

When such Assessment shall be made.

IX. And be it enacted, That such assessment upon lands and heritages shall be collected by the collector of the cess in such county or stewartry, and such assessment upon inhabited houses shall be collected by the collector of the assessed taxes levied upon such houses; and all the powers and authorities granted by any Act or Acts of Parliament to such collector of the land tax and to such collector of the assessed taxes,

Assessment how to be collected.

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59 Geo. III. c. 61.

for the levying and recovering thereof respectively, are hereby given and granted for the levying and recovering of such assessment.

Assessment to be accounted for by Collectors.

X. And be it enacted, That all sums of money levied by any such collector of the land tax or collector of the assessed taxes respectively, for or in respect of such assessment, shall after retaining an allowance for their trouble, not exceeding the allowance made to them for collecting the land tax and assessed taxes respectively, be paid over and accounted for by every such collector to such person or persons and at such time or times as shall be directed by the said commissioners of supply; and if any such collector shall not so pay and account for the same accordingly, every such collector so making default shall forfeit double the sum so neglected to be paid, to be recovered with interest thereon by the clerk of the commissioners of supply who shall sue for the same before the judge ordinary of the bounds with costs or expences of process; and such forfeiture shall be applied to the purposes for which such assessment was imposed and levied.

Assessment to be paid by Landlords, but Tenants to pay in the first Instance.

XI. And be it enacted, That the amount of every such assessment shall be wholly paid by the owners of lands as well as houses: Provided nevertheless, that the whole of such assessment upon houses shall be paid by the occupiers thereof in the first instance, but they shall be entitled and they are hereby authorised to retain from their landlords out of the first year's rent the whole amount of such assessment, which such landlords are hereby required and obliged to allow as part of the rent due for such inhabited houses on production and delivery of the collector's receipt for the same.

Power to grant Aid to County Gaols in Burghs, not being Royal Burghs.

XII. And be it enacted, That in all cases where any common gaol of any county or stewartry in *Scotland* is not the gaol of a royal burgh, it shall and may be lawful from time to time for any five or more of the commissioners of supply of any such county or stewartry, by a writing under their hands addressed to the convener of such county, to require him within six weeks from the date of such requisition being made to call a meeting of the commissioners of supply of such county or stewartry to take into consideration the state of such common gaol; and such convener shall thereupon call such meeting of the commissioners of supply of such county or stewartry to be held within six weeks from the date of the receipt of such requisition, by public advertisement in one or more newspapers published in such county or stewartry; or if no newspaper is published therein, by advertisement in such newspaper or newspapers as the convener usually intimates public county meetings in for such county or stewartry.

Commissioners of Supply to settle whether any Enlargement of Gaol is necessary.

XIII. And be it enacted, That at such meeting or at some adjournment thereof such commissioners of supply shall settle and determine whether any and what improvement or enlargement of such common gaol is necessary, or if it is necessary to rebuild the same; and before coming to a final resolution as to the plan proper to be adopted, shall and may if they think fit appoint a committee of their number to procure plans and estimates and to arrange all necessary details to enable the said commissioners to come to a final determination as to the mode of proceeding to be adopted: Provided always, that nothing herein contained shall empower or authorise the rebuilding of such common gaol of any county or stewartry in any burgh or town, other than the burgh or town in which such common gaol is at present situated.

Gaols to be rebuilt in Burghs where they are now situated.

How to levy and collect Assessments.

XIV. And be it enacted, That at such first meeting or at some adjournment thereof it shall and may be lawful for the said commissioners of supply or a majority of them to resolve and determine to what amount such county or stewartry shall be assessed for the improvement enlargement or rebuilding of any common gaol therein, and shall then or at some subsequent meeting to be held for that purpose make such assessment and direct the same to be levied at such times as shall be specified in the order making the assessment, so that the sums resolved and determined to be levied may be collected within the period requisite for accomplishing the purposes for which the same is to be levied; which assessment shall to such amount be made and collected in the manner

herein-before directed with regard to assessments on counties and stewartries for aid to royal burghs towards improving enlarging and rebuilding their gaols.

Heirs of Entail may charge Estates with Three-fourths Assessments.

XV. And be it enacted, That every proprietor of an entailed estate who shall pay assessments under this Act shall be a creditor to the succeeding heirs of entail in the manner after mentioned for three-fourth parts of the money so to be paid.

Mode of Recovery of Three-fourths Assessment, in Cases of Entailed Estates.

XVI. And be it enacted, That the person or persons having right to the claim arising from money so to be paid as aforesaid by the proprietor of an entailed estate in discharge of assessments under this Act, may after the expiration of one year from the death of such proprietor require the heirs succeeding to such estate to repay the said three-fourth parts of the said money so paid with the legal interest thereof from the term at which the said succeeding heir's right to the rents of the estate shall commence, upon receiving a proper assignment and conveyance of the said claim: and if the money so due be not paid within three months after such requisition, it shall be lawful for the person or persons having right thereto to sue the said heirs in the manner directed for the recovery of money expended in the improvements of entailed estates by an Act passed in the tenth year of the reign of his present Majesty, intituled *An Act to encourage the Improvement of Lands Tenements and Hereditaments in that Part of* Great Britain *called* Scotland, *held under the Settlements of strict Entail.*

10 Geo. 3. c. 51.

Rules of Relief among Heirs of Entail.

XVII. And be it enacted, That the same rules of relief among succeeding heirs of entail and their heirs and their successors of the claims for debt and of preference in competition of rents and in subjecting defenders to the payment of costs shall take place with regard to monies expended by the proprietors of entailed estates in payment of assessments under this Act as are enacted by the said Act passed in the tenth year of the reign of his present Majesty with respect to monies expended by proprietors of entailed estates in making improvements upon their estates for increasing the rents and value thereof.

Commissioners of Supply may borrow Money.

XVIII. And be it enacted, That such commissioners of supply shall have power and they are hereby authorised and empowered to borrow and take up at interest, on the security of the assessment hereby authorised to be levied, such sum or sums of money as they shall judge requisite for defraying the share or proportion of the expence of improving enlarging or rebuilding any gaol towards the expence of which they may think fit to contribute; or for improving enlarging or rebuilding such common gaol of the county or stewartry as the case may be; provided that the whole amount of the money so borrowed shall not exceed such sum as they shall have so resolved to contribute; and it shall be lawful for such commissioners of supply and they are hereby empowered to assign or make over the whole or any part of the assessment hereby authorised to be made to any person or persons willing to lend money on the security thereof at a rate not exceeding five pounds sterling *per centum per annum;* and every such assignment shall be made and executed by the clerk of supply, being specially authorised to do so at a general meeting of the commissioners of supply, and shall be entered in a book or books to be kept by him for that purpose, which book or books may be seen and perused by any person or persons interested therein without fee or reward; and all such assignments so executed shall be transferrable by indorsement duly subscribed by the party transferring in the presence of one or more subscribing witness or witnesses.

Committee of Superintendence may be appointed.

XIX. And be it enacted, That it shall and may be lawful for such commissioners of supply to appoint a committee of their number to superintend the execution of any work to which they may so contribute or which they may so resolve to execute (as the case may be) and the proper application of the money contributed for that purpose.

Power and Responsibility of Magistrates to continue as before.

XX. And be it enacted, That when the gaol of any royal burgh, to the improving enlarging or rebuilding of which aid shall have been afforded

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under this Act shall have been completed, and with any yards courts out-offices or conveniences therein shall be used for confining debtors felons vagrants and other delinquents, the magistrates and town council of the burgh wherein the same shall be situated and the gaoler or keeper gaolers or keepers of such gaol shall be respectively answerable, to all intents and purposes whatsoever, for the safe custody of all such persons as shall from time to time be committed to his or their custody in such gaol in the like manner as any magistrates and town council and the gaolers employed by them now are by law liable; and such magistrates and council shall have the same power over such gaol and the gaolers and keepers thereof and the debtors felons vagrants and other delinquents who shall be confined therein as they had in the gaol before the same shall have been improved enlarged or rebuilt; and such magistrates and town council, so soon as any such gaol so improved enlarged or rebuilt shall be delivered over to them, shall be bound and obliged to keep and maintain the same in good and sufficient repair from the funds of the burgh in all time coming.

Prisoners may be removed while Gaol is repairing.

XXI. And be it further enacted, That if it shall be found necessary for the purpose of improving enlarging or rebuilding any gaol of any royal burgh now existing that the prisoners therein should be removed during the period of such improvement enlargement or rebuilding, it shall be lawful for the magistrates of the burgh within which such gaol is situated to remove such prisoner or prisoners to any secure place of confinement within the said burgh or to any other gaol within the said county or stewartry, until such improvement enlargement or rebuilding shall be completed; and it shall be lawful for all persons legally authorised to commit other debtors felons and delinquents to commit them to the same; and when any such improved enlarged or new gaol shall be fit for the reception of prisoners, it shall be lawful for the magistrates and town council of the burgh in which such improved enlarged or new gaol shall be situated, and the keeper or keepers of such gaol to remove thereto all such debtors felons and other prisoners as shall then be confined in such other secure place of confinement; and such removal or removals and the airings or exercising of the prisoners who shall be confined in the improved enlarged or new gaol in any yards courts out offices or conveniences thereunto belonging shall not be deemed or taken to be an escape or escapes: Provided always that the magistrates of such burghs shall continue to be responsible for the safe custody of all such debtors felons and other prisoners during their removal to or confinement in such other secure place of confinement.

Prisoners may be removed while Gaols are repairing, in Cases where the same are not in Royal Burghs.

XXII. And be it enacted, That if it shall be found necessary for the improving enlarging or rebuilding any common gaol within any county or stewartry, not being the gaol of a royal burgh, that the prisoners therein should be removed during the period of such improvement enlargement or rebuilding, it shall be lawful for the justices of the peace for such county or stewartry in general sessions assembled to direct the removal of such prisoners and for all persons legally authorised to commit other debtors felons and delinquents to any secure place of confinement within such county or stewartry until such improvement enlargement or rebuilding shall be completed; and when any such improved enlarged or new gaol shall be fit for the reception of prisoners, it shall be lawful for such justices so assembled as aforesaid to direct the removal thereto of all such debtors felons or other prisoners as shall then be confined in such secure place of confinement and should by law be confined in such common gaol of the county or stewartry; and such removal and removals and the airings and exercisings of the prisoners who shall be confined in such improved enlarged or new gaol in any yards courts out offices or conveniences thereto belonging shall not be deemed or taken to be an escape or escapes; and the legal responsibility for the safe custody of all persons committed to such gaol and the burden and obligation to keep and maintain the same in good condition shall after such improvement enlargement or rebuilding be no ways altered thereby or by any thing in this Act contained.

XXIII. And be it enacted, That if any person or persons shall think himself herself or themselves aggrieved by any assessments imposed by virtue of this Act, it shall and may be lawful for such person or persons within three months after any such assessment shall have been demanded but not afterwards to appeal against the same to the justices of the peace at the quarter sessions of the county or stewartry wherein the subject matter of the complaint shall have arisen; giving fourteen days notice of such appeal to the collector of the assessment and lodging with such appeal a bond with sufficient surety or caution for fulfilling and implementing the sentence to be pronounced and for paying such expences as shall be awarded by the said justices of the peace, who are hereby authorised to determine the matter in dispute, and their judgment shall be exclusive of all other jurisdiction, and shall be final and conclusive without being subject to review in any court whatsoever.

Appeal against Assessment.

XXIV. And be it further enacted, That no action or suit shall be commenced against any person or persons for any thing done in pursuance or by virtue of this Act after six calendar months from the time the fact was committed or the cause of action had occurred for which such action or suit shall be brought; and the defender or defenders in any such action or suit may produce this Act and plead that the same was done by authority and in virtue thereof; and if it shall appear so to be done, or if any such action or suit shall be brought after the time hereby limited for bringing the same, then and in such case the defender or defenders shall be assoilzied from such action or suit and the pursuer or pursuers therein shall be found liable to pay the whole expence of process incurred by the defender or defenders.

Limitation of Actions.

XXV. And be it further enacted, That this Act shall be deemed and taken to be a public Act and shall be judicially taken notice of as such by all judges justices and others without being specially pleaded.

Public Act.

[No. XXXIII.] 59 Geo. III. c. 100.—An Act to amend an Act of the Fiftieth Year of the Reign of his present Majesty, relating to Prisons in *Ireland*.—[12*th July* 1819.]

59 George III. c. 100.

50 Geo. 3. c. 103.

WHEREAS by an Act made in the fiftieth year of his present Majesty's reign, intituled *An Act for repealing the several Laws relating to Prisons in* Ireland, *and for re-enacting such of the Provisions thereof as have been found useful, with Amendments*, it is amongst other things enacted, That it shall and may be lawful for each and every grand jury in *Ireland*, and they are thereby required at any assizes or presenting term to appoint a proper and discreet person being duly ordained in holy orders and of the established church to be chaplain of the several gaols bridewells houses of correction or other prisons of and in their respective counties counties of cities and counties of towns; and that it shall and may be lawful for every such grand jury if they shall be so required by the court also to appoint a proper and discreet person being a Protestant dissenting minister to be Protestant dissenting chaplain thereof; and also if they shall be so required by the court to appoint a priest or clergyman of the Roman Catholic church to be Roman Catholic chaplain: And whereas it may happen that grand juries may omit to make effectual appointments under the directions of the said recited Act; and it is expedient to provide for the appointment of such chaplains in case of any such omission by any grand jury: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That if at any time after the passing of this Act any grand jury at any assizes or presenting term, after having been required by the court or judge at any such assizes or presenting term to appoint a proper person to be chaplain or Protestant dissenting chaplain or Roman Catholic chaplain to any gaol bridewell house of correction or other prison in their respective counties counties of cities or counties of towns pursuant to the directions of the said recited Act, shall omit to make an effectual appoint-

In default of Appointment of Chaplains by the Grand Jury, Lord Lieutenant shall appoint them.

No. XXXIII. 59 Geo. III. c. 100.

ment or appointments of such chaplain or chaplains respectively before the last day of such assizes or presenting term; or in case any chaplain nominated and appointed by such grand jury shall not within one calendar month next after such nomination actually take upon him to exercise and perform or shall not continue duly and regularly to exercise and perform the duty to and for which he shall be so appointed by such grand jury; then and in every such case it shall and may be lawful to and for the lord lieutenant or other chief governor or governors of *Ireland* for the time being to appoint a proper and discreet person, being either a minister of the established church or a Protestant dissenting minister or a priest or clergyman of the Roman Catholic church as the case shall require, to fill the office or offices of such chaplain or Protestant dissenting chaplain or Roman Catholic chaplain to such gaol bridewell house of correction or other prison or prisons; and that all and every such chaplain and chaplains so appointed by such lord lieutenant or other chief governor or governors shall hold and exercise the office or offices of chaplain or Protestant dissenting chaplain or Roman Catholic chaplain or any or either of them as fully and effectually in all respects and to all intents and purposes and with all the same rights powers privileges and advantages and subject to the same controul and liability of removal as if such chaplain or chaplains respectively had been appointed to such office or offices by the grand jury according to the direction of the said recited Act, and shall be entitled to such salaries to be presented by grand juries to such amount and in such manner as is directed by the said recited Act; any thing in the said recited Act or any other Act or Acts or any law usage or custom to the contrary notwithstanding.

PART VI.

CLASS XXII.

Highways.

[No. I.] 13 George III. c. 78.—An Act to explain, amend, and reduce into one Act of Parliament the Statutes now in being for the Amendment and Preservation of the Public Highways within that Part of *Great Britain* called *England*, and for other Purposes.

13 George III. c. 78.

'WHEREAS the laws now in being for the amendment and preservation of the highways of that part of *Great Britain* called *England* 'require some explanation and amendment;' May it therefore please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from henceforth upon the twenty-second day of *September* in every year, unless that day shall be *Sunday* and then on the day following, the constables headboroughs tythingmen churchwardens surveyor of the highways and householders being assessed to any parochial or publick rate of every parish township or place shall assemble together at the church or chapel of such parish township or place, or if there shall be no church or chapel then at the usual place of publick meetings for such parish township or place at the hour of eleven in the forenoon: And the major part of them so assembled shall make a list of the names of at least ten persons living within such respective parishes townships or places who each of them have an estate in lands tenements or hereditaments lying within such respective parish township or place, in their own right or in the right of their wives, of the value of ten pounds by the year; or a personal estate of the value of one hundred pounds; or are occupiers or tenants of houses lands tenements or hereditaments of the yearly value of thirty pounds: And if there shall not be ten persons having such qualifications as aforesaid then they shall insert in such list the names of so many of such persons as are so qualified as above required, together with the names of so many of the most sufficient and able inhabitants of such parish township or place not so qualified as shall make up the number ten, if so many can be found; if not, so many as shall be there resident to serve the office of surveyor of the highways: and the constable headborough and tythingman of such parish township or place shall within three days after such meeting transmit a duplicate of such list to one of the justices of the peace within the limit of the county riding division hundred city corporation precinct or liberty where such parish township or place shall lie, living in or near the same; and shall also return and deliver the original list made and agreed upon at such meeting to the justices of the peace at their special sessions to be held for the highways within that limit in the week next after the *Michaelmas* general quarter sessions of the peace (1.) in every year; and shall also within three days after making the said list give personal notices to or cause notices in writing to be left at the places of abode of the several persons contained in such list, informing them of their being so named, to the intent that they may severally appear before the justices at

On Sept. 22, yearly, a List is to be made of at least Ten Persons, by Constables, &c.

Qualification of Surveyors.

Duplicate List shall be transmitted to one of the Justices, and original List to the Special Sessions, by the Constable, &c.

Notice.

(1.) If the Justices make no Appointment at the Sessions here directed, they may do afterwards; and may be compelled thereto by Mandamus. R. *v.* Justices of Denbighshire, 4 E. 142.

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13 Geo. III. c. 78.

Justices are to give Ten Days' Notice of holding Special Sessions, &c.

the said special sessions to accept such office if they shall be appointed thereto, or to shew cause if they have any against their being appointed: and the said justices are hereby authorised and required to hold such special sessions at such convenient place or places within their respective limits as they in their discretion shall judge proper; and to give notice of the time and place where they intend to hold the same to the constables headboroughs or tythingmen of every such parish township or place at least ten days before the holding of the said session; and the said justices then and there from the said lists, according to their discretion and the largeness of the parish township or place respectively, by warrant under their hands and seals shall appoint one two or more of such persons as aforesaid if he or they shall in the opinion of such justices be qualified for the office of surveyor, (2.) if not one two or more of the other substantial inhabitants or occupiers of lands tenements woods tithes or hereditaments within such parish township or place, living within three miles thereof and within the same county, fit and proper to serve the office of surveyor of the highways for such parish township or place if any such can be found; which appointment shall by the constables headboroughs or tythingmen aforesaid be notified to every person so appointed by the said justices within three days after such appointment by serving him with the said warrant or by leaving the same or a true copy thereof at his house or usual place of abode; and every person so appointed if he accepts the office shall be surveyor of the highways for the said parish township or place for the year ensuing and shall take upon him and duly execute the office aforesaid; and the said justices shall then and there give such of the said surveyors as shall personally appear before them a charge for the better performance of their duty according to the directions of this Act: and if any of the said persons so appointed whose names were contained in such list and who were served with the said notice shall refuse or neglect to appear at the said special sessions and accept the said office if appointed thereto in manner aforesaid, or shall not within six days after being served with such warrant of appointment signify his acceptance thereof either in person or by writing to one of the said justices, he shall forfeit the sum of five pounds; and in case any person so appointed by the said justices whose name was not contained in such list, shall refuse or neglect to accept the said office, or shall not within six days after being served with such appointment shew to one of the justices signing such appointment sufficient cause why he should not serve such office, he shall forfeit the sum of fifty shillings: Provided that no person who hath been appointed and served the office of surveyor for one year shall be liable to be appointed surveyor for the same parish township or place within three years from the time of such first appointment and service, unless he shall consent thereto; but if no such list shall be made and returned, or if the said justices shall make such appointment as aforesaid, and the person or persons so appointed shall refuse to serve the said office, the said justices or any two of them shall and may and are hereby required at the said special sessions or at some subsequent special sessions to be held within one month after to nominate and appoint some other person or persons to be surveyor of such parish township or place whom they shall judge proper to execute that office, and shall and may fix such salary to be paid to such surveyor to be appointed as herein last before mentioned out of the said forfeitures and all other forfeitures fines penalties assessments and compositions to be paid levied and raised under the authority of this Act within such parish township or place respectively as such justices shall think fit; not exceeding one-eighth part of what shall have been raised by an assessment of six pence in the pound for the use of the highways within such parish township or place where any such assessment shall have been raised, and observing the same restriction as near as they can from the best information they shall be able to get of the probable amount of such an assess-

and may appoint from the Lists such Number of Surveyors as they shall judge fit, &c.

The Surveyor shall hold his Office for one Year.

Justices to give a Charge for Performance of Duty.

Persons refusing to serve forfeit 5*l.* &c.

Not to be again appointed for the same Place within three Years after.

If no List made, or Person appointed refuses to serve, another may be appointed, and Salary fixed, &c.

(2.) The Lists are only for the Purpose of assisting the Magistrates, and they may, at their Discretion, appoint other Persons not named therein. R. *v.* Baldwin, 7 T. R. 169.

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ment where none hath been already made; and the said justices shall and may if they think fit require the constables headboroughs tythingmen and surveyor of every such parish township and place or any of them to return to them, at such time and place as they shall appoint, an account in writing of the sum which such assessment of six pence in the pound hath raised or will in his or their opinion raise within such parish township or place: and if the constables headboroughs tythingmen churchwardens surveyors of the highways and such householders as aforesaid of any parish township or place shall neglect or refuse to make such list as aforesaid; or if the constable headborough or tythingman of any parish township or place shall not return the said list of names when made and such duplicate thereof as aforesaid and give such notice or notices and serve such warrant or warrants as in this Act is directed; or if the said constable headborough tythingman and surveyor or any of them shall neglect to return such account of the amount of such assessment as aforesaid when so required as aforesaid, every constable headborough tythingman churchwarden or surveyor so neglecting or refusing in any of the said cases shall for every such default respectively forfeit the sum of forty shillings.

Constables, &c. to return an Account which the Assessment of 6d. per Pound will raise.

II. And be it further enacted, That in all cases where the said justices upon neglect or refusal of the person so nominated surveyor as aforesaid to accept the said office shall appoint any other person for such surveyor with a salary as aforesaid, the said justices shall and are hereby required to appoint one substantial inhabitant of such parish township or place for assistant to such surveyor in the several matters and for the several purposes hereafter mentioned, until the next annual appointment of surveyors according to the directions of this Act; and if the person so appointed assistant shall upon notice of such appointment refuse to accept that office, he shall forfeit the sum of fifty shillings: and in that case it shall and may be lawful for such justices to appoint any other substantial inhabitant of such parish township or place for assistant to such surveyor in manner and for the time aforesaid; and if such second appointed assistant shall decline or refuse to accept the said office, he shall in like manner forfeit the sum of fifty shillings; and the said justices shall and may appoint any other person inhabiting in such parish township or place assistant to such surveyor, who shall be intitled to the said forfeitures herein last before mentioned, and also to some further allowance by way of salary (to be paid as the surveyor's salary is hereby directed to be paid) if the said justices shall think any such salary necessary and shall order the same which they are hereby authorised to do: Provided that no person so appointed assistant for one year shall be liable to be appointed assistant for the same parish township or place within three years next following such first appointment without his consent.

Where the Justices, upon such Refusal, shall appoint another Person, they are to appoint one substantial Inhabitant for his Assistant, &c.

III. And be it further enacted, That the surveyor of every parish township and place who shall not reside therein but shall be appointed with such salary as aforesaid shall, if required by the churchwarden overseer of the poor or any principal inhabitant of the parish township or place for which he shall be so appointed surveyor, at the time of his appointment or within fourteen days after give a bond upon paper without stamp thereupon to some proper person within such parish township or place to be nominated by the said justices with sufficient surety to account for the money which shall come to his hands as surveyor according to the directions of this Act; which bond shall be good and effectual in law.

Bond to be given by the Surveyor.

IV. And be it further enacted, That the assistant so to be nominated and appointed shall and is hereby required to the best of his skill and judgment to assist the said surveyor whenever requested by him in calling in and attending the performance of the statute duty; in collecting the compositions fines penalties and forfeitures; in making and collecting the assessments; in making out and serving the notices authorised by this Act; and in such other matters and things as shall be reasonably required of him by the surveyor in the execution of his office as surveyor pursuant to this Act: and the said assistant shall justly and truly account with and pay to the said surveyor

Duty of Assistant Surveyor.

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or to his order from time to time according to the directions of this Act, all the money which shall come to his hands as assistant by the means aforesaid; and in default thereof he shall forfeit double the value of the money by him so received and not so paid and accounted for; and if the said assistant shall wilfully neglect or make default in the performance of any of the duty required from him by this Act, he shall forfeit for every such offence any sum not exceeding five pounds nor less than forty shillings, at the discretion of the justice or justices of the limit within which such assistant shall be appointed: and the said surveyor shall and is hereby required to send orders in writing upon the said assistant for the payment of all sums due to any person or persons for work or materials by virtue of this Act which amount to forty shillings or upwards; and the said surveyor shall not be responsible for any sum or sums of money which shall be received by the said assistant and shall not be actually paid to such surveyor or to his order as aforesaid.

Forfeitures for Neglect.

Surveyors to send Orders upon the Assistant for Payment, &c.

If two Parts agree in the Choice of Surveyor and Salary, Justices may appoint, &c.

V. Provided always and be it further enacted, That if two parts out of three of those so to be assembled in any such parish township or place for the nomination of surveyors as aforesaid shall agree in the choice of any particular person of skill and experience to serve the said office of surveyor for such parish township or place and in the setting of a certain salary for his trouble therein, and shall return the name of such person together with the list herein-before directed to the justices of the peace at their said sessions to be held in the week next after the *Michaelmas* quarter sessions; that then and in every such case it shall and may be lawful for the said justices if they shall think proper to appoint such person to be surveyor for such parish township or place and to allow him the salary mentioned in such agreement, which shall be raised and paid in the same manner as the salary herein-before mentioned is directed to be raised and paid; and in case any surveyor to be appointed under the authority of this Act shall die or become incapable of executing that office before such next special sessions for appointing surveyors the said justices or any two of them shall and may at some special sessions nominate and appoint such person or persons as they shall think proper to execute the said office until such next special sessions for appointing surveyors as aforesaid; and if such deceased surveyor had a salary they may allow the same salary to his successor in proportion to the time he shall serve the said office; and if the said justices of the peace at their special sessions or at any time afterwards pursuant to the powers of this Act shall appoint more than one person for surveyor of any parish township or place, all and every person or persons so appointed shall be comprehended under the word *Surveyor* in every part of this Act.

No Tree to stand within 15 Feet of the Centre of the Highway.

VI. And be it further enacted, That no tree bush or shrub shall be permitted to stand or grow in any highways within the distance of fifteen feet from the centre thereof (except for ornament or shelter to the house building or court-yard of the owner thereof) or hereafter to be planted within the distance aforesaid; but the same shall respectively be cut down grubbed up and carried away by the owner or occupier of the land or soil where the same doth or shall stand or grow within ten days after notice to him her or them or his her or their steward or agent given by the said surveyors or any of them on pain of forfeiting for every neglect the sum of ten shillings.

Hedges, &c. adjoining, by whom and in what manner to be cut.

VII. And be it further enacted, That the possessors of the land next adjoining to every highway shall cut prune and plash their hedges, and also cut down or prune and lop the trees growing in or near such hedges or other fences (except those trees planted for ornament or shelter as aforesaid) in such manner that the highways shall not be prejudiced by the shade thereof respectively and that the sun and wind may not be excluded from such highway to the damage thereof; and that if such possessor shall not within ten days after notice given by the surveyor for that purpose cut prune and plash such hedges and cut down or prune and lop such trees in manner aforesaid it shall and may be lawful for the surveyor and he is hereby required to make complaint thereof to some justice of the peace of the limit where such highway shall be, who shall summon

the possessor of the said lands to appear before the justices at some special sessions for that limit to answer to the said complaint; and if it shall appear to the justices at such special sessions that such possessor had not complied with the requisites of this Act, it shall and may be lawful for the said justices upon hearing the surveyor and possessor of such land or his agent (or in default of his appearance upon having due proof of the service of such summons) and considering the circumstances of the case to order such hedges to be cut plashed and pruned and such trees to be cut down or pruned in such manner as may best answer the purposes aforesaid; and if the possessor of such lands shall not obey such order within ten days after it shall have been made and he shall have had due notice thereof he shall forfeit the sum of two shillings for every twenty-four feet in length of such hedge which shall be so neglected to be cut and plashed, and the sum of two shillings for every tree which shall be so neglected to be cut down or pruned and lopped; and the surveyor in case of such default made by the possessor shall and is hereby required to cut prune and plash such hedges and to cut down or prune and lop such trees in the manner directed by such order; and such possessor shall be charged with and pay over and above the said penalties the charges and expences of doing the same; or in default thereof such charges and expences shall be levied together with the said forfeitures upon his or her goods and chattels by warrant from a justice of peace in such manner as is authorised for forfeitures incurred by virtue of this Act.

Occupiers shall make sufficient Ditches, &c.

VIII. And be it further enacted, That ditches drains or watercourses of a sufficient depth and breadth for the keeping all highways dry and conveying the water from the same shall be made scoured cleansed and kept open and sufficient trunks tunnels plats or bridges shall be made and laid where any cartways horseways or footways lead out of the said highways into the lands or grounds adjoining thereto by the occupier or occupiers of such lands or grounds; and every person or persons who shall occupy any lands or grounds adjoining to or lying near such highway through which the water hath used to pass from the said highway shall and is hereby required from time to time as often as occasion shall be to open cleanse and scour the ditches watercourses or drains for such water to pass without obstruction; and that every person making default in any of the matters or things aforesaid after ten days' notice to him her or them given of the same by the said surveyor shall for every such offence forfeit the sum of ten shillings.

Persons laying Stone, &c. in any Highway, &c. for every Offence forfeit 10s.

IX. And be it further enacted, That if any person or persons shall lay in any highway any stone timber straw dung or other matter, or in making scouring or cleansing the ditches or watercourses shall permit the soil or earth dug out of such ditches drains or watercourses to remain in such highway in such manner as to obstruct or prejudice the same for the space of five days after the notice thereof given by the surveyor of the highways; every person or persons offending in any of the said cases shall for every such offence forfeit and pay the sum of ten shillings.

Stone, &c. laid within 15 Feet of the Centre of the Highway, and not removed, &c.

X. And be it further enacted, That if any stone or timber or any hay straw stubble or other matter for the making of manure or on any other pretence whatsoever not tolerated by this Act shall be laid in any highway within the distance of fifteen feet from the centre thereof, and shall not within five days after notice given by the surveyor or some person aggrieved thereby be removed, it shall and may be lawful for the owner or possessor of the lands adjacent or any other person or persons whomsoever by order from some justice of peace to clear the said highways by removing the said stone timber hay straw dung or other matter and to have take and dispose of the same to his and their own use.

Obstruction in the Highways.

XI. 'And for preventing obstructions in the said highways,' Be it enacted, That if any person shall wilfully set place or leave any waggon cart or other carriage or any plough or instrument of husbandry in any of the said highways (except only with respect to such waggon cart or carriage during such reasonable time as the same shall be loading or unloading and standing as near the side of such highway as conveniently may be) so as to interrupt or hinder the free passage of any other car-

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riage or of his Majesty's subjects; every person so offending shall forfeit the sum of ten shillings for every such offence.

Surveyors' Duty on taking a View of Highways, &c.

XII. And be it further enacted, That the surveyors of the highways to be appointed by virtue of this Act shall at all such times and seasons as they shall judge proper view all the common highways trunks tunnels plats hedges ditches banks bridges causeways and pavements within the parish township or place for which they shall be appointed surveyors; and in case they shall observe any nuisances encroachments obstructions or annoyances made committed or permitted in upon or to the prejudice of them or any of them contrary to the directions of this Act, they shall from time to time as soon as conveniently may be give or cause to be given to any person or persons doing committing or permitting the same personal notice or notice in writing to be left at his her or their usual place or places of abode, specifying the particulars wherein such nuisances defaults obstructions or annoyances consist; and if such nuisances obstructions or annoyances shall not be removed and the ditches drains gutters and watercourses aforesaid effectually made scoured cleansed and opened and such trunks tunnels plats and bridges made and laid and such hedges properly cut and pruned within twenty days after such notice of the same respectively given as aforesaid, then the said surveyors shall be and they are hereby fully authorised and empowered forthwith to remove such nuisances obstructions or annoyances and open cleanse and scour such ditches gutters and watercourses and make or amend such trunks tunnels plats or bridges and cut and prune such hedges for the benefit and improvement of the said highways to the best of their skill and judgment and according to the true intent and meaning of this Act; and the person or persons so neglecting to make or open and cleanse such ditches gutters or watercourses or to cut or prune such hedges during the time aforesaid after such notice given shall forfeit for every foot in length which shall be so neglected the sum of one penny; and the said surveyors shall be reimbursed what charges and expences they shall be at in removing such nuisances obstructions or annoyances and making or opening cleansing and scouring such ditches gutters and watercourses and in making or amending such trunks tunnels plats or bridges and in cutting and pruning such hedges respectively by the person or persons who ought to have done the same over and above the said forfeiture; and in case such person or persons shall upon demand refuse or neglect to pay the said surveyor his charges and expences occasioned thereby respectively and also the said forfeiture of one penny per foot, then the said surveyor shall apply to any justice of the peace; and upon making oath before him of notice being given to the defaulter in manner aforesaid and of the said work being done by such surveyor and of the expences attending the same, the said surveyor shall be repaid by such person or persons all such his said charges as shall be allowed to be reasonable by the said justice; or in default of payment thereof on demand the same shall be levied in such manner as the penalties and forfeitures hereby inflicted are directed to be levied.

Times of cutting Hedges, &c. in the Highways.

XIII. Provided nevertheless, That no person or persons shall be compelled nor any surveyor permitted by virtue of this Act to cut or prune any hedge at any other time than between the last day of *September* and the last day of *March*; and that nothing herein contained shall extend or be construed to oblige any person or persons to fell any timber trees growing in hedges at any time whatsoever except where the highways shall be ordered to be enlarged as hereinafter mentioned, or to cut down or grub up any oak trees growing within such highway or in such hedges except in the months of *April May* or *June*, or any ash elm or other trees in any other months than in the months of *December January February* or *March*.

Where old Ditches, &c. are insufficient, new ones may be made.

XIV. And be it further enacted, That where the ditches gutters or watercourses which have been usually made or which are herein-before directed to be made cleansed and kept open shall not be sufficient to carry off the water which shall lie upon and annoy the highways; that then and in every such case it shall and may be lawful for the said surveyors by the order of any one or more of the said justices to make new

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ditches and drains in and through the said lands and grounds adjoining or lying near to such highways or in and through any other lands or grounds if it shall be necessary for the more easy and effectually carrying off such water from the said highways, and also to keep such ditches gutters or watercourses scoured cleansed and opened; and the said surveyors and their workmen are hereby authorised to go upon the said lands for the purposes aforesaid: Provided that the said surveyors make proper trunks tunnels plats bridges or arches over such ditches gutters or watercourses where the same shall be necessary for the convenient use and enjoyment of the lands or grounds through which the same shall be made and from time to time keep the same in repair; and do also make satisfaction to the owner or occupier of such lands which are not waste or common for the damages which he she or they shall sustain thereby: to be settled and paid in such manner as the damages for getting materials in several or inclosed lands or grounds are hereafter directed to be settled and paid.

Cartways to Market Towns, and Horseways.

XV. And be it further enacted, That the said surveyors of the highways shall and they are hereby required to make support and maintain or cause to be made supported and maintained every publick cartway leading to any market town twenty feet wide at the least; and every publick horseway or driftway eight feet wide at the least, if the ground between the fences inclosing the same will admit thereof.

Justices may order narrow Roads to be widened, &c. See *Cowp.* 648.

XVI. (3.) Provided always and be it further enacted, That where it shall appear upon the view of any two or more of the said justices of the peace that the ground or soil of any (4.) highway between the fences thereof is not of sufficient breadth and may be conveniently widened and enlarged, or that the same cannot be conveniently enlarged and made commodious for travellers without diverting and turning the same; such justices shall and they are hereby empowered within their respective jurisdictions to order such highways respectively to be widened and enlarged or diverted and turned in such manner as they shall think fit, so that the said highways when enlarged and diverted shall not exceed thirty feet in breadth; and that neither of the said powers do extend to pull down any house or building or to take away the ground of any garden park paddock court or yard; and for the satisfaction of the person or persons bodies politick or corporate who are seised or possessed of or interested in their own right or in trust for any other person or persons in the said ground that shall be laid into the said highways respectively so to be enlarged or through which such highway so to be diverted and turned shall go, the said surveyor under the direction and with the approbation of the said justices shall and is hereby empowered to make an agreement with him her or them for the recompence to be made for such ground and for the making such new ditches and fences as shall be necessary, according and in proportion to their several and respective interests therein, and also with any other person or persons bodies politick or corporate that may be injured by the enlarging altering or diverting such highways respectively for the satisfaction to be made to him her or them respectively as aforesaid: and if the said surveyor under the direction and with the approbation of the said justices cannot agree with the said person or persons bodies politick or corporate, or if he she or they cannot be found or shall refuse to treat or take such recompence or satisfaction as shall be offered to them respectively by such surveyor; then the justices of the peace at any general quarter sessions to be holden for the limit wherein such ground shall lie, upon certificate in writing signed by the justices making such view as aforesaid of their proceedings in the premises, and upon proof of fourteen days' notice in writing having been given by the

(3.) The Forms of the Act must be followed as far as may be, otherwise the Proceeding is void, and the Invalidity thereof may be taken advantage of in a collateral proceeding; therefore when the Order omitted to specify the Breadth of the new Road, the old Road was held to subsist: Davidson *v.* Gill, 1 East. 64.

(4.) This extends to Highways repaired *Ratione Tenure*, and the Surveyor is indictable for Disobedience of an Order to widen them: Rex *v.* Balme, Cowp. 648.

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surveyor of such parish township or place, to the owner occupier or other person or persons bodies politick or corporate interested in such ground, or to his her or their guardian trustee clerk or agent, signifying an intention to apply to such quarter sessions for the purpose of taking such ground, shall impannel a jury of twelve disinterested men out of the persons returned to serve as jurymen at such quarter sessions; and the said jury shall upon their oaths to the best of their judgment assess the damages to be given and recompence to be made to the owners and others interested as aforesaid in the said ground for their respective interests as they shall think reasonable, not exceeding forty years' purchase, for the clear yearly value of the ground so laid out, and likewise such recompence as they shall think reasonable for the making of new ditches and fences on the side or sides of the said highways that shall be so enlarged or diverted, and also satisfaction to any person or persons bodies politick or corporate that may be otherwise injured by the enlarging or diverting the said highways respectively: and upon payment or tender of the money so to be awarded and assessed to the person or persons bodies politick or corporate intitled to receive the same, or leaving it in the hands of the clerk of the peace of such limit, in case such person or persons bodies politick or corporate cannot be found or shall refuse to accept the same, for the use of the owner of or others interested in the said ground, the interest of the said person or persons bodies politick or corporate in the said ground shall be for ever divested out of them, and the said ground after such agreement or verdict as aforesaid shall be esteemed and taken to be a publick highway to all intents and purposes whatsoever; saving nevertheless to the owner or owners of such ground all mines minerals and fossils lying under the same which can or may be got without breaking the surface of the said highway; and also all timber and wood growing upon such ground to be fallen and taken by such owner or owners within one month after such order shall have been made, or in default thereof to be fallen by the said surveyor or surveyors within the respective months aforesaid and laid upon the land adjoining for the benefit of the said owner or owners: and where there shall not appear sufficient money in the hands of the surveyor or surveyors for the purposes aforesaid, then the said two justices in case of agreement or the said court of quarter sessions after such verdict as aforesaid shall order an equal assessment to be made levied and collected upon all and every the occupiers of lands tenements woods tithes and hereditaments in the respective parishes townships or places where such highways shall lie, and direct the money to be paid to the person or persons bodies politick or corporate so interested in such manner as the said justices or court of quarter sessions respectively shall direct and appoint: and the money thereby raised shall be employed and accounted for according to the order and direction of the said justices or court of quarter sessions respectively for and towards the purchasing the land to enlarge or divert the said highways and for the making the said ditches and fences, and also satisfaction for the damages sustained thereby; and the said assessment if not paid within ten days after demand shall by order of the said justices or court of quarter sessions respectively be levied by the said surveyor in the manner herem-after mentioned: Provided, That no such assessment to be made in any one year shall exceed the rate of six pence in the pound of the yearly value of the lands tenements woods tithes and hereditaments so assessed.

Old Highway and Soil may be sold by the Surveyor,

XVII. And be it further enacted, That when any such new highways shall be made as aforesaid the old highway shall be stopped up and the land and soil thereof shall be sold (5.) by the said surveyor with the approbation of the said justices to some person or persons whose lands adjoin thereto if he she or they shall be willing to purchase the same, if not to some other person or persons for the full value thereof: but if such old road shall lead to any lands house or place which cannot in the opinion

subject, &c.

(5.) It seems to have been overlooked, that, subject to the Right of Passage, the Ownership of the Soil is vested in private Individuals, and may be a valuable Property.

of such justices respectively be accommodated with a convenient way and passage from such new highway which they are hereby authorised to order and lay out if they find it necessary; then and in such case the said old highway shall only be sold subject to the right of way and passage to such lands house or place respectively according to the ancient usage in that respect; and the money arising from such sale in either of the said cases shall be applied towards the purchase of the land where such new highway shall be made: and upon payment or tender of the money so to be agreed for as aforesaid and upon a certificate being signed by the said two justices or by the chairman of the said court of quarter sessions in case the same shall be determined there, describing the lands so sold and expressing the sum so agreed for and directing to whom the same shall be paid; and upon the purchaser's taking a receipt for such purchase-money from the person entitled to receive the same, by an indorsement on the back of such certificate, the soil of such old highway shall become vested in such purchaser and his heirs; but all mines minerals and fossils lying under the same shall continue to be the property of the person or persons who would from time to time have been entitled to the same if such old highway had continued there.

Costs of Proceedings by whom payable.

XVIII. And be it further enacted, That in case such jury shall give in and deliver a verdict for more monies as a recompence for the right interest or property of any person or persons bodies politick or corporate in such lands or grounds, or for the making such fence or for such damage or injury to be sustained by him her or them respectively as aforesaid, than what shall have been proposed and offered by the said surveyor before such application to the said court of quarter sessions as aforesaid; that then and in such case the costs and expences attending the said several proceedings shall be borne and paid by the surveyor of the said highway out of the monies in his or their hands, or to be assessed and levied by virtue and under the powers of this Act; but if such jury shall give and deliver a verdict for no more or for less monies than shall have been so offered and proposed by the said surveyor before such application to the said court of quarter sessions; that then the said costs and expences shall be borne and paid by the person or persons bodies politick or corporate who shall have refused to accept the recompence and satisfaction so offered to him her or them as aforesaid.

Highways, &c. may be turned by the Justices at their special Sessions, with Consent of the Owners, if, &c.

XIX. (6.) [And be it further enacted, That when it shall appear upon the view of any two or more of the said justices of the peace that any publick highway not in the situation herein-before described or publick bridleway or footway may be diverted (7.) so as to make the same nearer or more commodious to the publick, and the owner or owners of the lands and grounds through which such new highway bridleway or footway is proposed to be made shall consent thereto by writing under his or their hand and seal or hands and seals, it shall and may be lawful by order of such justices at some special sessions to divert and turn and to stop up such footway and to divert turn and stop up and inclose sell and dispose of such old highway or bridleway and to purchase the ground and soil for such new highway bridleway or footway by such ways and means and subject to such exceptions and conditions in all respects as herein-before mentioned with regard to highways to be widened or diverted; and where any such highway bridleway or footway herein last before described shall be so ordered to be stopped up or inclosed, and such new highway bridleway or footway set out and appropriated in lieu thereof as aforesaid, it shall and may be lawful for any person or persons injured or aggrieved by any such order or proceeding or by the inclosure of any road or highway by virtue of any inquisition taken upon any writ of *ad quod*

Appeal.

(6.) The Part of this Clause included in Brackets is repealed, and other Provisions substituted in lieu thereof, by Stat. 55 Geo. III. c. 68. post. No. 19.

(7.) A Road cannot be stopped up by reason of widening another, by throwing to it several Slips of Land; but a new Line of Road must actually be made, and the old Highway continues, notwithstanding the Order for Diversion has been confirmed at the Sessions; the Justices in such Case having no Jurisdiction: Welch *v.* Nash, 8 E. 394.

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damnum (8.) to make his or their complaint thereof by appeal to the justices of the peace at the next quarter sessions which shall be holden within the limit where the same shall lie, after such order made or proceeding had as aforesaid, upon giving ten days' notice in writing of such appeal to the surveyor and party interested in such inclosure if there shall be sufficient time for that purpose; if not, such appeal may be made upon the like notice to the next subsequent quarter sessions of the peace, which courts of quarter sessions are hereby respectively authorised and empowered to hear and finally determine such appeal; and if no such appeal be made, or being made, such order and proceedings shall be confirmed by the said court, the said inclosures may be made and the said ways stopped, and the proceedings thereupon shall be binding and conclusive to all persons whomsoever; and the new highway bridleway or footway so to be appropriated and set out shall be and for ever after continue a publick highway bridleway or footway to all intents and purposes whatsoever; but no inclosures of such old highways or bridleway or stoppage of such footway shall be made until such new highways bridleway or footway shall be completed and put into good condition and repair and so certified by two justices of the peace upon view thereof; (9.) which certificate shall be returned to the clerk of the peace and by him inrolled amongst the records of the said court of quarter sessions; but from and after such certificate such old highways bridleway or footway shall and may be stopped up and the soil of such old highways or bridleway sold in the manner and subject to the reservations and restrictions herein-before mentioned with respect to highways to be enlarged or diverted by virtue of this Act:] And where any highway bridleway or footway hath been diverted and turned above twelve months, either from necessity where the same have been destroyed by floods or slips of the ground on which they were made, or from other causes and motives, if new highways bridleways or footways have been made in lieu thereof nearer or more commodious to the public and the same have been acquiesced in and no suit or prosecution hath been commenced for the diverting or turning the same, every new highway bridleway or footway set out and used in the place of that so diverted and turned shall from henceforth (10.) be the publick highway bridleway or footway to all intents and purposes whatsoever; and all persons liable to the repair of any such old highways bridleway or footway so diverted and turned or to be diverted and turned as aforesaid, shall in the same manner be and continue liable to the repair of such new highways bridleway or footway, except where any agreement shall have been made relative to such repairs between the parties interested therein which hath laid the burthen thereof or of any part thereof upon any other person or persons in which case the same shall be observed.

Concerning those which have been turned above TwelveMonths, and no Prosecution commenced.

XX. Provided nevertheless and be it further enacted, That no common land lying between the fences of any old highway to be stopped up or inclosed by virtue of this Act shall be inclosed; and where the land lying between the fences of such highway not being common land shall upon a medium exceed thirty feet in breadth and not extend to fifty feet in

In what Cases, &c. the old Highways, or the Lands lying between the Fences inclosing the same, shall be disposed of.

(8.) If, upon a Writ of *Ad quod Damnum*, the new Road is set out in the same Parish, the Parish ought to repair; if in a different Parish, the Person suing out the Writ. Venner v. Lucy, 3 Atk. 766.

(9.) Where an Order of Justices for the diversion and turning of a Road recites that they had viewed the new Road and found it to be in good condition and repair: Held to be a sufficient Certificate thereof under Stat. 13 Geo. 3. c. 78. § 19. If the Certificate be deposited with the Clerk of the Peace, that is an enrolment of it within the same Section. Where a Road is stopped up by order of the Justices, and a new one is substituted, partly over the Ground of a stranger, and partly over an accustomed Road, that is a sufficient compliance with the Act, provided the new Road convey the public to the same place as the old one did. De Ponthieu v. Pennyfeather, 1 Marsh 261. S. C. 5 Taunt. 634.

(10.) This Provision as to Roads diverted above twelve Months, relates only to Roads diverted so long before the passing of the Act; the word *henceforth* not admitting of any other construction. Waite v. Smith, 8 T. R. 133.

breadth the same shall not be stopped up or inclosed until satisfaction shall be made to the owner of such land for so much thereof as shall exceed the said breadth of thirty feet; and if the parties cannot agree in the satisfaction so to be made the same shall be adjusted by the said justices or the jury if a jury shall be impannelled; and if the land between the fences inclosing such highways not being common land shall exceed fifty feet in breadth upon a medium, or if the said old road so to be diverted or turned shall lie through the open field or ground belonging to any particular person or persons, such person or persons and also the person or persons entitled to the land between the fences on the side of such highway shall respectively hold and enjoy the land and soil of such old highway and pay to the surveyor for the use of the hgihways so much money as shall be agreed upon between the parties; or if they cannot agree, so much as shall be deemed and adjudged by the said justices or jury, if such jury shall be impannelled as aforesaid, to be adequate to the purchase of it, estimating such highway at thirty feet in breadth upon an average.

When old Footways are stopped up, and new ones laid out, in what Manner Owners of Lands shall make and receive Satisfaction.

XXI. And be it further enacted, That where any footway shall be diverted by virtue of this Act through the land belonging to the same person who owned the land through which such old footway lay, the same shall be adjudged and deemed an exchange only and no satisfaction or compensation shall be made, unless the land to be used for such new footway shall be of greater length and of greater value than the land used for such old footway; and where the said footway shall not be turned through the lands belonging to the same person, the damage occasioned by such old footway to the lands through which it lay, if the parties interested shall not agree in adjusting the same, shall be adjudged by two indifferent persons, the one to be named by the owner of the land and the other by the said two justices; and if the persons so to be nominated cannot agree therein they shall chuse some third person to adjudge the same whose determination shall be final; and the money at which such damages shall be assessed shall be applied in making satisfaction to the owner or owners of the land through which such new footway shall be made.

Justices to order unnecessary Highways to be stopped up.

XXII. And be it further enacted, That if in any parish township or place where any highway shall be diverted and turned by virtue of this Act it shall appear to the justices who are hereby authorised to view or inquire into the same (11.) that there are other highways within such parish township or place besides that so to be diverted and turned, which may without inconvenience to the publick be diverted into such new highway hereby authorised to be made or into any highway or other highways within such parish township or place, and the charge of repairing such highway or highways may be thereby saved to such parish township or place, it shall and may be lawful for such justices to order such highway or highways which shall appear to them unnecessary to be stopped up and the soil thereof sold in such manner and subject to such restrictions and such right of appeal to the party or parties aggrieved thereby as are herein-before respectively directed and given concerning the highways to be stopped up or inclosed.

Justices on Information of Surveyor, may order Highways, liable to be repaired by Tenure, &c. to be repaired.

XXIII. And be it further enacted, That every surveyor shall and may from time to time give information upon oath to the said justices or any two or more of them of all such highways and of all bridges causeways or pavements upon such highways as are out of repair and ought to be repaired by any person or persons bodies politick or corporate by reason of any grant tenure limitation or appointment of any charitable gift or otherwise howsoever; and the said justices shall limit a time for repairing the same, of which notice shall be given by the said surveyor to the occupier or occupiers of the lands or tenements liable to the burthen of such repairs, or to such other person or persons bodies politick or corporate as are charge-

(11.) This Power is only given where a new Road is set out. It must be one entire Act: the Clauses make one Provision, and the Powers under them are to make but one Transaction: Page *v.* Howard, Cald. 228.; but see Stat. 55 Geo. III. c. 68. post. No. 19.

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able with the same; and if such repairs shall not be effectually made within the time so limited, the said justices shall and are hereby required to present such highways bridges causeways or pavements so out of repair, together with the person or persons bodies politick or corporate liable to repair the same, at the next general quarter sessions of the peace for the limit wherein such highway shall lie, and the justices at such quarter sessions may if they see just cause direct the prosecution to be carried on at the general expence of such limit and to be paid out of the general rates within the same.

Presentments of Highways, &c. out of Repair.

XXIV. And be it further enacted, That every justice of assize justices of the counties palatine of *Chester Lancaster* and *Durham* and of the great sessions in *Wales* shall have authority by this statute upon his or their own view, and every justice of the peace either upon his own view or upon information upon oath to him given by any surveyor of the highways, to make presentment at their respective assizes or great sessions or in the open general quarter sessions of such respective limit of any highway causeway or bridge not well and sufficiently repaired and amended, or of any other default or offence committed and done contrary to the provision and intent of this statute, and that all defects in the repair thereof shall be presented in such jurisdiction where the same do lie and not elsewhere; and that no such presentment nor any indictment for any such default or offence shall be removed by *certiorari* or otherwise out of such jurisdiction till such indictment or presentment be traversed and judgment thereupon given, except where the duty or obligation of repairing the said highways causeways or bridges may come in question and that every such presentment made by any such justice of assize counties palatine great sessions or of the peace, upon his own view or upon such information having been given to such justice of the peace upon the oath of such surveyor of the highways as aforesaid, shall be as good and of the same force strength and effect in the law as if the same had been presented and found by the oaths of twelve men; and that for every such default or offence so presented as aforesaid the justices of assize counties palatine and great sessions at their respective courts and the justices of the peace at their general quarter sessions shall have authority to assess such fines as to them shall be thought meet: saving to every person or persons that shall be affected by any such presentment his her or their lawful traverse to the same presentment as well with respect to the fact of non-repair as to the duty or obligation of repairing the said highways as they might have had upon any indictment of the same presented and found by a grand jury; and the justices of the peace at their general quarter sessions or the major part of them may if they see just cause direct the prosecutions upon such presentments as shall be made at the quarter sessions as aforesaid to be carried on at the general expence of such limit and to be paid out of the general rates within the same.

A *Certiorari pro Rege* lies before Traverse. *Cowp.* 78.

Justices may order what Highways shall be first repaired.

XXV. And be it further enacted, That the said justices of the peace at any special sessions to be held by virtue of this Act may by writing under their hands and seals order and appoint those highways (not being turnpike road) which in their opinion do most want repair within their jurisdiction to be first amended, and at what time and in what manner the same shall be amended; according to which order, if such there be, all and singular the respective surveyors of the said highways are hereby required to proceed within their respective liberties.

Direction Posts.

XXVI. 'And for the better convenience of travellers where several 'highways meet,' Be it further enacted, That the said justices at some special sessions to be held for the purposes of this Act shall issue their precept to the surveyor of the highways for any parish township or place where several highways meet and there is no proper or sufficient direction post or stone already fixed or erected, requiring him forthwith to cause to be erected or fixed in the most convenient place where such ways meet, a stone or post with inscriptions thereon in large legible letters painted on each side thereof containing the name or names of the next market town or towns or other considerable place or places to which the said highways respectively lead; and also at the several approaches or

entrances to such parts of any highways as are subject to deep or dangerous floods graduated stones or posts denoting the depth of water in the deepest part of the same, and likewise such direction posts or stones as the said justices shall judge to be necessary for the guiding of travellers in the best and safest track through the said floods or waters; and the said surveyor shall be reimbursed the expences of providing and erecting the same respectively out of the monies which shall be received by him or them pursuant to the directions of this Act; and in case any surveyor shall by the space of three months after such precept to him directed and delivered neglect or refuse to cause such stones or posts to be fixed as aforesaid, every such offender shall forfeit the sum of twenty shillings.

Materials.

XXVII. 'And for the better repairing and keeping in repair the said 'highways and providing of materials for that purpose,' Be it enacted, That it shall and may be lawful for every surveyor to be appointed as aforesaid to take and carry away or cause to be taken and carried away so much of the rubbish or refuse stones of any quarry or quarries lying and being within the parish township or place where he shall be surveyor (except such as shall have been got by the surveyor of any turnpike road) without the licence of the owner or owners of such quarries as they shall judge necessary for the amendment of the said highways, but not to dig or get stone in such quarry without leave of the owner thereof; and also that it shall and may be lawful for every such surveyor for the use aforesaid in any waste land or common ground river or brook within the parish township or place for which he shall be surveyor, or within any other parish township or place wherein gravel sand chalk stone or other materials are respectively likely to be found (in case sufficient cannot be conveniently had within the parish township or place where the same are to be employed, and sufficient shall be left for the use of the roads in such other parish township or place), to search for dig get and carry away the same, so that the said surveyor doth not thereby divert or interrupt the course of such river or brook or prejudice or damage any building highway or ford, nor dig or get the same out of any river or brook within the distance of one hundred feet above or below any bridge nor within the like distance of any dam or wear; and likewise to gather stones lying upon any lands or grounds within the parish township or place where such highway shall be for such service and purpose, and to take and carry away so much of the said materials as by the discretion of the said surveyor shall be thought necessary to be employed in the amendment of the said highways without making any satisfaction for the said materials; but satisfaction shall be made for all damages done to the lands or grounds of any person or persons by carrying away the same in the manner herein-after directed for getting and carrying (12.) materials in inclosed lands or grounds; but no such stones shall be gathered without the consent of the occupier of such lands or grounds, or a licence from a justice of peace for that purpose after having summoned such occupier to come before him and heard his reasons, if he shall appear and give any, for refusing his consent.

XXVIII. Provided always and be it further enacted by the authority aforesaid, That nothing in this Act contained relative to the gathering or getting of stones shall extend to any quantity of land (being private property) covered with stones thrown up by the sea commonly called *beach*.

If sufficient Materials cannot be found in waste Lands, &c.

XXIX. And be it further enacted, That it shall and may be lawful for every such surveyor for the use aforesaid to search for dig and get sand gravel chalk stone or other materials, if sufficient cannot conveniently be had within such waste lands common grounds rivers or brooks in and through any of the several or inclosed lands or grounds of any person or persons whomsoever within the parish township or place where the same shall be wanted, or by licence from two justices of the peace at a special

(12.) If Lands are vexatiously and unnecessarily entered under colour of this Act, Trespass may be maintained; but the Damages to be paid in respect of Matters authorized by the Act, can only be ascertained in the Manner prescribed by Sec. 29. and not by a Jury upon a Question as to the sufficiency of Amends in an Action of Trespass. Bayfield v. Porter, 13 E. 200.

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sessions within any other parish township or place adjoining or lying near to the highway for which such materials shall be required, if it shall appear to such justices that sufficient materials cannot be conveniently had in the parish township or place where such highways lie, or in the waste lands or common grounds rivers or brooks of such adjacent parish township or place, and that a sufficient quantity of materials will be left for the use of the parish township or place where the same shall be (such lands or grounds not being a garden yard avenue to a house lawn park paddock or inclosed plantation), and to take and carry away so much of the said materials as by the discretion of the said surveyor shall be thought necessary to be employed in the amendment of the said highways; the said surveyor making such satisfaction for the damage to be done to such lands or grounds by the getting and carrying away the same as shall be agreed upon between him and the owner occupier or other person interested in such lands or grounds respectively in the presence and with the approbation of two or more substantial inhabitants of such parish township or place; and in case they cannot agree, then such satisfaction and recompence shall be settled and ascertained by order of one or more justice or justices of the peace of the limit where such land or ground shall lie: and in such places where from the want of other materials burnt clay may be substituted in the place thereof, it shall and may be lawful for the surveyor to dig clay in such places as he is hereby authorised to dig chalk or gravel, and to dry the same upon the lands adjoining and to burn the same upon any waste lands or common grounds, and to carry such clay in such manner as other materials are allowed to be carried by this Act upon making such satisfaction for the damages within the several inclosed lands or grounds where such clay shall be placed or carried as herein directed with regard to other materials: Provided, that when the owner of any such inclosed lands shall have occasion for any such materials lying within the same for the repair of any highway or other roads or ways upon his estate or which he shall be under obligation to repair, and shall give notice to such surveyor that he apprehends there will not be sufficient for those purposes and also for the use of the publick highways; then and in every such case the surveyor shall not be permitted to dig or take such materials without the consent of such owner or an order of two justices of the peace, after having summoned and heard the said owner or occupier or his steward or agent; which justices are hereby authorised to inquire into the nature and circumstances of the case, and to permit or restrain such power in such manner and under such directions as to them shall seem just.

XXX. 'And whereas in some parishes townships or places there may 'not be sufficient materials for the repair of the highways within the 'same, nor within the waste lands common grounds rivers or brooks of 'any other parish township or place lying within a convenient distance 'from such highway, by reason whereof the surveyor of such highway 'may be forced to buy such materials, and to make recompence and 'satisfaction to the owner or occupier of inclosed lands for damage which 'may be done by getting and carrying thereof: And whereas no provi-'sion is made for raising a fund to reimburse the expences thereof, and 'also such expences as the said surveyors may incur by erecting guide-'posts or other posts or stones, and by making or repairing such trunks 'tunnels plats bridges or arches as aforesaid, and by rendering satisfac-'tion for damages done to lands by the making of new ditches or drains, 'nor for the salary to be paid by such parish township or place to such 'surveyor as aforesaid;' Be it therefore enacted, That upon application by such surveyor to the justices of the peace at their special sessions, and oath made of the sum or sums of money which he hath *bona fide* laid out and expended or which will be required for the purposes aforesaid, the said justices or any two or more of them shall and they are hereby empowered by warrant under their hands and seals to cause an equal assessment to be made for the purposes aforesaid upon all occupiers of lands tenements woods tithes and hereditaments within such parish township or place where such money shall be so expended or laid out; and the same shall be made and collected by such person or persons, and allowed

Expences incurred for buying Materials, making Satisfaction for Damages, &c.

in such manner as the said justices by their order at such sessions shall direct and appoint in that behalf; and the money thereby raised shall be employed and accounted for according to the direction of the said justices for the purposes aforesaid; and the said assessment shall be levied in such manner as hereinafter mentioned: Provided nevertheless, That no such assessment to be made for those or any of those purposes in any one year shall exceed the rate of six pence in the pound, of the yearly value of the lands tenements woods tithes and hereditaments so to be assessed.

If Pits or Holes are made in getting Materials, Surveyor shall cause them to be filled up or fenced off.

XXXI. And be it further enacted, That if any surveyor or person employed by him shall by reason of the searching for digging or getting any gravel sand stones chalk clay or other materials for repairing any highways make or cause to be made any pit or hole in any such lands or grounds rivers or brooks as aforesaid wherein such materials shall be found, such surveyor person or persons shall forthwith cause the same to be sufficiently fenced off and such fence supported and repaired during such time as the said pit or hole shall continue open, and shall within three days after such pit or hole shall be opened or made, where no gravel stones or materials shall be found, cause the same to be forthwith filled up levelled and covered with the turf or clod which was dug out of the same; and where any such materials shall be found, within fourteen days after having dug up sufficient materials in such pit or hole cause the same to be filled up sloped down or fenced off and so continued; and every surveyor shall within twenty days after he shall be appointed to that office cause all the said pits and holes which shall then be open and not likely to be further useful to be filled up or sloped down in manner aforesaid; and if they are likely to be further useful, he shall secure the same by posts and rails or other fences to prevent accidents to persons or cattle; and in case such surveyor person or persons shall neglect to fill up slope down or fence off such pit or hole in manner and within the time aforesaid, he or they shall forfeit the sum of ten shillings for every such default: and in case such surveyor person or persons shall neglect to fence off such pit or hole or to slope down the same as herein-before directed for the space of six days after he or they shall have received notice for either of those purposes from any justice of the peace or from the owner or occupier of such several ground river or brook or any person having right of common within such common or waste lands as aforesaid, and such neglect and notice shall be proved upon oath before one or more of the said justices of the peace, such surveyor person or persons shall forfeit and pay any sum not exceeding ten pounds nor less than forty shillings for every such neglect; to be determined and adjudged by such justice or justices, and to be laid out and applied in the fencing off filling up or sloping down such pit or hole, and toward the repair of the roads in the parish township or place where the offence shall be committed, in such manner as the said justice or justices shall direct and appoint; which forfeiture in case the same be not forthwith paid shall be levied as other forfeitures are hereinafter directed to be levied.

Materials dug for any other Parish to be removed in Summer or hard Frost.

XXXII. Provided always and be it further enacted, That no stone gravel or materials to be dug for the use of any other parish township or place than that wherein the same are found shall be removed or carried from the place where they shall be so dug at any other time than between the first day of *April* and the first day of *November* or in the time of hard frost in the winter season.

Persons damaging Mills, &c. for digging Materials, forfeit, &c.

XXXIII. And be it further enacted, That if any person shall dig or cause to be dug materials for the highways contrary to the direction of this Act, whereby any bridge mill building dam highway ford mines or tin-works may be damaged or endangered; every offender therein shall forfeit for every such offence any sum not exceeding five pounds nor less than twenty shillings, at the discretion of the court or justices before whom complaint thereof shall be made. (13.)

(13.) Where a local Turnpike Act, after empowering the Trustees under it to take tolls, directed that the Roads should from time to time be repaired by the Trustees out of the money arising by virtue of the Act: Held, that this only made the Tolls an auxiliary fund in the

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Statute duty, (14.) in respect of keeping a Team or occupying Lands, &c.

XXXIV. And be it further enacted, That the said surveyor to be appointed as aforesaid, together with the inhabitants and occupiers of lands tenements woods tithes and hereditaments within each parish township or place, shall at proper seasons in every year use their endeavours for the repair of the highways, and shall be chargeable thereunto as followeth; that is to say, Every person keeping a waggon wain plough or tumbrel and three or more horses or beasts of draught used to draw the same, shall be deemed to keep a team draught or plough and be liable to perform statute duty with the same in the parish township or place where he resides, and shall six days in every year (if so many days shall be found necessary) to be computed from *Michaelmas* to *Michaelmas* send on every day and at every place to be appointed by the surveyor for the amending the highways in such parish township or place one wain cart or carriage, furnished after the custom of the country with oxen horses or other cattle and all other necessaries fit to carry things for that purpose, and also two able men with such wain cart or carriage; which duty so performed shall excuse every such person from his duty in such parish township or place, in respect of all lands tenements woods tithes or hereditaments not exceeding the annual value of fifty pounds which he shall occupy therein: and every person keeping such team draught or plough and occupying in the same parish township or place lands tenements woods tithes or hereditaments of the yearly value of fifty pounds over and beyond the said yearly value of fifty pounds, in respect whereof such team duty shall be performed; and every such person occupying lands tenements woods tithes or hereditaments of the yearly value of fifty pounds in any other parish township or place besides that wherein he resides, and every other person not keeping a team draught or plough but occupying lands tenements woods tithes or hereditaments of the yearly value of fifty pounds in any parish township or place, shall in like manner respectively and for the same number of days find and send one wain cart or carriage furnished with not less than three horses or four oxen and one horse or two oxen and two horses, and two able men to each wain cart or carriage; and in like manner for every fifty pounds *per annum* respectively, which every such person shall further occupy in any such parish township or place respectively, such wains carts or carriages to be employed by the surveyor in the repairing and amending the highways within the parish township or place where such lands tenements woods tithes or hereditaments shall respectively lie; and every person who shall not keep a team draught or plough, but shall occupy lands tenements woods tithes or hereditaments under the yearly value of fifty pounds in the parish township or place where he resides or in any other parish township or place; and every person keeping a team draught or plough and occupying lands tenements woods tithes or hereditaments under the yearly value of fifty pounds in any other parish township or place than that wherein he resides, shall respectively contribute to the repair of the highways and pay to the surveyor of such parish township or place respectively in lieu of such duty the sums following; *videlicet*, For every twenty shillings of the annual value of such lands tenements woods tithes or hereditaments respectively the sum of one penny for every day's statute duty which shall be required and called for by the surveyor of such parish township or place respectively in every year, not exceeding six days duty in the whole as aforesaid; and every such person respectively shall in like manner pay the sum of one penny for every twenty shillings of the annual value of the lands tenements woods tithes and hereditaments which he shall occupy in any such parish township or

Contribution in Money.

hands of the Trustees, and that the Inhabitants of the Township where the Road was situate, who by prescription were bound to repair all roads within it, were nevertheless liable to be indicted for non-repair of the road: Held also, that such Inhabitants may, after conviction, apply by motion for relief against the Trustees under 13 Geo. 3. c. 78. § 33. Held also, that 13 Geo. 3. c. 84. § 63. only refers to diversions under Writs of *Ad quod Damnum*, and under 13 Geo. 3. c. 78. § 19. Rex v. Netherthong (Inhab.) 2 B. & A. 179.

(14.) The Performance of Statute Duty is now regulated by Stat. 34 Geo. III. c. 74. post. No. 14.; but for the Manner of enforcing the Provisions therein contained, it may be sometimes requisite to refer to the Clauses of this Act, which, as they relate to the quantity of Duty performed, are repealed.

Place respectively above the annual value of fifty pounds and less than one hundred pounds, and so for every twenty shillings that each progressive and intermediate annual value of twenty shillings of the lands tenements woods tithes and hereditaments which he shall so occupy shall fall short of the further increase of fifty pounds in every parish township or place where such lands tenements woods tithes and hereditaments shall respectively lie for every day's statute duty so to be required as aforesaid; which said several sums shall be considered as compositions, and shall be paid to the surveyor of the parish township or place in which they are charged for the use of the highways therein at the time such compositions are to be paid under the authority of this Act or within ten days after; or in default of such payments such money shall be levied by distress and sale of the goods and chattels of the person or persons refusing to pay the same, in such manner as the forfeitures for the neglect in performing the statute duty are hereby authorised to be levied and raised: Provided that no person keeping such team draught or plough and performing duty with the same as aforesaid in the parish township or place where he resides, and not occupying lands tenements woods tithes or hereditaments within the same of the yearly value of thirty pounds, shall be obliged to send more than one labourer with such team draught or plough.

How Contributions in Money are to be recovered.

XXXV. And be it further enacted, That every person who shall not keep a team draught or plough but shall keep one or more cart or carts and one or two horses or beasts of draught only used to draw in each of such carts upon the highways shall be obliged to perform his statute-duty for the like number of days with such cart or carts and horse or horses or beasts of draught and one labourer to attend each cart, or to pay for the lands tenements woods tithes and hereditaments which he shall occupy according to the rate aforesaid at the option of the surveyor; and every person who shall keep a coach post-chaise chair or other wheel-carriage and not keep a team draught or plough, nor occupy lands tenements woods tithes or hereditaments of the annual value of fifty pounds, in the parish township or place where he shall reside, shall pay to the surveyor one shilling in respect of every such day's statute-duty for every horse which he shall draw in any such carriage, or shall pay according to the value of the lands tenements or hereditaments which he shall occupy according to the rate aforesaid at the option of the surveyor; and also every man inhabiting in any parish township or place, (15) and being of the age of eighteen and under the age of sixty years not chargeable in any of the respects aforesaid for lands tenements woods tithes or hereditaments of the yearly value of four pounds or upwards, and not being *bona fide* an apprentice or menial servant, nor having performed the said duty or paid the composition for the same in any other parish township or place for that year, shall by themselves or one sufficient labourer for every of them upon every of the said days on which they shall be called forth by the said surveyor together with the said other labourers work and labour in the amendment of the said highways as they shall be directed by such surveyor; and if the said teams draughts or ploughs or any of them shall not be thought needful by the surveyor on any of the said days, then every such person who should have sent any such team draught or plough according to the directions aforesaid shall according to the notice to be given as hereinafter directed send unto the said work for every one so spared three able men there to labour as aforesaid or to pay to the said surveyor the sum of four shillings and sixpence in lieu thereof; and all such persons as aforesaid shall respectively have and bring with them such shovels spades picks mattocks and other tools and instruments as are useful and proper for the purposes aforesaid; and all the said persons and carriages shall diligently perform the work and labour to which they shall be appointed by such surveyor for eight hours in every of the said days within such parish township or place or in getting and carrying materials in and from any other parish township or place to

The Duty required from Persons who do not keep a Team, but Horses used to draw, &c.

Personal Labour required.

Three Men to be sent in lieu of a Team, if required, or 4*s.* 6*d.* in Money.

Under what Regulation Duty shall be performed.

(15.) The liability to repair, as a mere personal Obligation, is altogether repealed by Statute 34 Geo. III. c. 74.

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be employed in the repair of the highways of the parish township or place for which they shall be required to perform such duty and labour as aforesaid: and if any person sending a team as aforesaid shall not send a sufficient labourer besides the driver (except as herein-before mentioned); or if any such labourer or driver or any other labourer or the driver of any cart required by this Act to perform statute-duty as aforesaid shall refuse to work and labour during the time above-mentioned according to the direction of the surveyor; or if any driver shall refuse to carry proper and sufficient loads; it shall and may be lawful for such surveyor to discharge every such team cart or labourer, and to recover from the owner of every such team or cart the forfeiture which every such person or persons would have incurred by virtue of this Act in case no such team cart or labourer respectively had been sent.

Surveyor may call for Part of a Team.

XXXVI. And be it further enacted, That it shall and may be lawful for the surveyor where the employment for teams is of such sort that two horses will be sufficient for one cart, or where a stand cart with one horse shall be necessary, to call upon any person liable to send a team draught or plough by virtue of this Act who keeps one or more cart or carts and three or more horses to send such cart or carts horse or horses to perform his statute-duty as the surveyor shall find most convenient and shall direct; and the surveyor shall allow every such stand cart and one horse as half a team, and every cart and two horses as two-thirds of a team; and if a waggon shall be found necessary for any particular business, the surveyor may require the duty or any part thereof to be performed with such waggon by any person who keeps one; which directions of the surveyor shall be observed or the person liable to perform such duty shall forfeit such sum as the duty so required of him shall bear in proportion to the forfeiture hereby inflicted for every neglect in performing duty with a team draught or plough.

What Notice to be given for performing the Duty.

Forfeitures for Neglect.

XXXVII. And be it further enacted, That every such surveyor shall from time to time give to or cause to be left at the house or usual place of abode of every person or persons so liable to perform such duty or labour as in this Act directed four days' notice at the least of the day hour and place upon which each of the said day's duty shall be required to be performed; and every person or persons making default in finding and sending each wain cart or carriage furnished as aforesaid, and such able men with the same as herein required, or in performing the said duty at the time and place and in the manner by this Act directed, shall for every such default or neglect in sending such wain cart or carriage with such men as aforesaid forfeit the sum of ten shillings; and for every default in sending every cart with one horse and one man three shillings; and for not sending every cart with two horses and one man five shillings: and every person or persons making default in sending any such labourer and every person making default in performing such labour at the time and place and in the manner directed by this Act, or in paying such composition-money for the same as herein mentioned shall for every such neglect forfeit the sum of one shilling and six pence; all which forfeitures shall be applied for the use of the highways within the parish township or place where the same shall arise; and the said surveyor shall fairly and equally demand and require such duty and labour from every person or persons liable to perform the same according to the directions of this Act without favour or partiality to any person or persons whomsoever: and if in any parish township or place it shall not be necessary to call forth the whole duty in any year it shall be abated in a just and equal proportion amongst all persons liable to the same; and the said surveyor may and shall and he is hereby required with all convenient speed after default made in performance of such duty or labour as aforesaid to proceed for the recovery of the penalties or forfeitures hereby inflicted for the same respectively in manner herein-after directed, so that the same may be recovered before he makes up his accounts in the manner directed by this Act.

Application of the Forfeitures.

Surveyor to call forth the Duty equally.

Persons may compound for Statute work.

XXXVIII. Provided always and be it further enacted, That any person or persons liable to perform the said duty by sending one or more team or teams draught or draughts plough or ploughs with men horses or oxen

in manner aforesaid shall and may compound for the same if he she or they shall think fit, by paying to the said surveyor at the time and in the manner hereinafter mentioned such sum or sums of money as the justices of the peace for the limit wherein such parish township or place shall be or the major part of them at their said special sessions to be held in the first week after *Michaelmas* quarter sessions in every year shall adjudge and declare to be reasonable not exceeding six shillings nor less than three shillings for each team draught or plough for each day; and in default of their adjudging and declaring the same the sum of four shillings and sixpence for and in lieu of every such day's duty for each team draught or plough; and for every cart and one horse or beast of draught two shillings; and for every cart with two horses or beasts of draught three shillings for and in lieu of every day's duty; and every inhabitant liable to perform such duty or labour as aforesaid and not chargeable in any other respect as aforesaid shall and may compound for the same if he she or they shall think fit, by paying to the surveyor the sum of four pence for and in lieu of every such day's duty or labour respectively, at the time and in the manner herein-after directed for the payment of composition-money. (16.)

Compositions fixed.

XXXIX. Provided always and be it further enacted, That if it shall appear to the justices at their special sessions to be held in the week next after *Michaelmas* quarter sessions that from the directions herein-before given for the performing and compounding the statute-duty, there will be difficulty in procuring the necessary carriage or a sufficient number of labourers for the repair of the highways in any particular parish township or place within their respective limits without paying high and extravagant prices for the same, it shall and may be lawful for such justices to order and direct the team-duty hereby required or so much thereof as they shall think fit to be performed in kind within every such parish township or place, except in respect of such teams as belong to persons who do not occupy lands tenements woods tithes or hereditaments of the annual value of thirty pounds within the same; and also to order the labourers liable by this Act to perform or compound for statute-duty or such part of them as they shall think fit to perform six days labour upon such highways in kind in case so many days duty shall be required, upon being paid for such labour the usual and customary wages given to labourers in such parish township or place, deducting thereout the sum of four pence for each day's duty so performed, being the composition hereby allowed for labourers: Provided, That if part of such teams or labourers only are required, it shall be directed by the said order of the justices in some given proportion as one half third or fourth part thereof; and the surveyor shall in that case at a public vestry for such parish township or place put the names of all the persons liable by this Act to send such teams into one hat or box, and the names of all the persons liable to perform such labour into another hat or box, and some inhabitant then present shall draw out such number from each as shall be equal to the proportion so ordered by the said justices, and the persons so drawn shall perform such duty in kind for that year; and that if any such order shall be made or continued in the subsequent year the same method shall be observed, but the names drawn in the preceding year shall not be put into such hat or box; and in every succeeding year such method and regulation shall be observed by such surveyor as to render the duty so required to be performed in kind as equal amongst the several persons liable thereto as may be: which order of the said justices so far as the same shall be extended shall supersede the said power or liberty of compounding and shall be binding and effectual to all intents and purposes whatsoever, and shall continue in force until it shall be discharged or varied by the justices at some subsequent special sessions for the highways within such limit to be held in the week next after *Michaelmas* quarter sessions; any thing herein contained to the contrary thereof in any wise notwithstanding.

Justices may direct the Performance of Team Duty or Labour in Kind in any particular Parish, &c.

(16.) By stat. 54 Geo. III. c. 109, post. No. 18. the Option of calling for Composition, instead of Statute-duty, is given to the Surveyors.

No. I.

13 Geo. III. c. 78.

Justices may mitigate Composition, &c.

XL. Provided always and be it further enacted, That if any person or persons who shall keep a team draught or plough and shall not occupy lands tenements woods tithes or hereditaments to the value of thirty pounds *per annum* in the parish township or place where he shall reside, but shall in part maintain his horses and beasts of draught used in such team upon or from lands which he shall occupy in one or more adjacent parish or parishes, it shall and may be lawful for the said justices at some special sessions to mitigate and reduce the duty or composition so required to be performed or paid by such person or persons in such manner and to such sum as they shall think just and reasonable.

Surveyors to give Notice of compounding.

XLI. Provided also and be it further enacted, That the said surveyor of every parish township or place shall on some *Sunday* in *November* in every year cause ten days' notice at the least to be given in the church or chapel of such parish township or place, and if there be no church or chapel or no service performed therein, then at the most publick place there, and repeat the like notice in such church chapel or place on the next succeeding *Sunday*, of the time and place when and where the persons permitted under the authority of this Act and inclined to compound for the said duty in manner aforesaid may signify to such surveyor their intention to compound; and all and every person or persons signifying the same, who shall then or within the space of one calendar month afterwards pay to such surveyor the composition authorised and allowed by this Act, shall be discharged from the performance of such duty, which composition-money shall be employed by the surveyor for the use of the highways; and that no composition shall be permitted unless the same shall be paid at the day or within the time aforesaid; but in cases where the occupation of any lands tenements woods tithes or hereditaments shall be changed or any new occupant or inhabitant shall come to reside in such parish township or place after the time appointed for such composition, then the person or persons occupying such lands tenements woods tithes or hereditaments or so residing in such parish township or place shall be allowed to compound in manner aforesaid: Provided he she or they shall pay the said composition-money to the said surveyor within fourteen days after he she or they shall enter upon such lands tenements or hereditaments or shall come to reside in such parish township or place; and every tenant or occupier of any lands tenements woods tithes or hereditaments who intends to quit the possession thereof within six calendar months from the time fixed for making such composition shall and may compound for half the duty hereby required, and the succeeding tenant or occupier shall and may in that case compound or perform the duty in kind for the other half thereof; and if the surveyor shall receive from any person or persons a composition for more duty than shall be required from the other inhabitants and occupiers within the same parish township or place for the same year, he shall repay such extraordinary composition-money to such person or persons so as to bring the duty to an equality amongst all such inhabitants and occupiers.

How Composition-money shall be paid and employed.

Persons keeping a Draught or Plough, to pay for Horses drawing them.

XLII. Provided always and be it further enacted, That in every parish township or place where any person shall keep a draught or plough and no carriage, he shall pay to the surveyor the sum of one shilling for every horse or pair of oxen or neat cattle used in such draught or plough for every day's statute-duty on the day such duty is required to be performed or pay according to the rate aforesaid for the lands tenements woods tithes and hereditaments which he shall occupy in such parish township or place at the option of the surveyor.

Inhabitants may fix certain Times when Duty shall not be.

XLIII. 'And in order to prevent as much as possible any inconvenience to the persons liable to perform statute-duty,' Be it enacted, That it shall and may be lawful for the inhabitants of every parish township or place at some vestry or other publick meeting or meetings to be held pursuant to this Act to appoint three months in every year within which no statute-duty shall be performed; *videlicet*, one month in the spring to be called *The Seed Month;* one month in the summer for the hay harvest; and one other month in the summer for the corn harvest: Pro-

vided, That notice in writing be given of the times so appointed to the surveyor of such parish township or place respectively and also to the surveyor of every turnpike road lying within the same within three days after every such meeting and fourteen days at least before the beginning of each of such months.

XLIV. 'And whereas by several Acts of Parliament concerning turnpike roads a certain part of the duty called *Statute-duty* is or may be directed to be performed on such roads, and it may happen in some places that the several persons liable thereto may have compounded for the same;' Be it therefore further enacted, That in all such cases the surveyor of the highways of the parish township or place where such composition shall have been made shall pay to the treasurer or surveyor of such turnpike roads a certain part of the composition-money so received, to be proportioned according to the number of days duty which such person or persons was or were liable to perform on such turnpike road; which money shall be laid out and expended on such part of the said turnpike road as lies within the parish township or place from which it was received and not elsewhere; and if such surveyor of the highways shall refuse or neglect to pay to the treasurer or surveyor of such turnpike road such part of the said composition-money so received by him within twenty days after he shall have received the same upon demand made by such treasurer or surveyor, the same shall and may be levied upon the goods and chattels of such surveyor in such manner as penalties and forfeitures are by this Act authorised to be levied.

Where Surveyor receives Composition, he shall pay it to the Treasurer, &c.

XLV. And be it further enacted, That if upon application of the surveyor of the highways for any parish township or place to the justices of the peace for the limit wherein such parish township or place lieth at their general or quarter sessions of the peace or at some special sessions for the highways, the said justices shall be fully satisfied by proof upon oath that the duty hereby directed to be performed and the money hereby authorised to be collected and received has been performed applied and expended according to the directions of this Act, or shall be fully satisfied that the common highways bridges causeways streets or pavements belonging to such parish township or place are so far out of order that they cannot be sufficiently amended and repaired paved cleansed and supported by the means herein-before prescribed (notice being first given of such intended application at the church or chapel of such parish township or place on some *Sunday* preceding such quarter or special sessions; or if the place be extraparochial, notice in writing being first given of such intended application to some of the principal inhabitants residing in such extraparochial place a week at least before such general or special sessions); that then and in any of the said cases an equal assessment upon all and every the occupier of lands tenements woods tithes and hereditaments within any such parish township or place shall or may be made and collected by such person and persons and allowed in such manner as the said justices by their order at such general or special sessions shall direct and appoint in that behalf; and the money thereby raised shall be employed and accounted for according to the orders and directions of the said justices for and towards the amending repairing paving cleansing and supporting such highways causeways streets pavements, and bridges from time to time as need shall require.

If Duty and Money not sufficient, Justices may order an Assessment: See *Doug.* 405.

XLVI. Provided nevertheless, That the assessment herein last before authorised and the assessment herein-before authorised for buying materials making satisfaction for damages erecting guide-posts and paying the surveyor's salary shall not together in any one year exceed the rate of nine pence in the pound of the yearly value of the lands tenements woods tithes and hereditaments so to be assessed.

XLVII. And be it further enacted, That no fine issue penalty or forfeiture for not repairing the highways or not appearing to any indictment or presentment for not repairing the same shall hereafter be returned into the Court of Exchequer or other court, but shall be levied by and paid into the hands of such person or persons residing in or near the parish township or place where the road shall lie as the court imposing such

Fines, Penalties, and Forfeitures. See *Doug.* 405.

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fines issues penalties or forfeitures shall order and direct to be applied towards the repair and amendment of such highways; and the person or persons so ordered to receive such fine shall and is hereby required to receive apply and account for the same according to the direction of such court, or in default thereof shall forfeit double the sum received; and if any fine issue penalty or forfeiture to be imposed on any such parish township or place for not repairing the highways or not appearing as aforesaid shall hereafter be levied on any one or more of the inhabitants of such parish township or place, that then such inhabitant or inhabitants shall and may make his or their complaint to the justices of the peace at their special sessions; and the said justices are hereby empowered and authorised by warrant under their hands and seals to cause a rate (17.) to be made according to the form and manner herein last before prescribed for the reimbursing such inhabitant or inhabitants the monies so levied on him or them as aforesaid; which rate so made and confirmed by any two justices shall be collected and levied by the surveyor of the highways of such parish township or place so presented or indicted as aforesaid; and the said surveyor shall within one month next after the making and confirming the rate aforesaid collect levy and pay unto such inhabitant or inhabitants the money so levied on him or them as aforesaid. (18.)

Surveyor's Duty.

XLVIII. And be it further enacted, That the surveyor of the highways for every parish township or place shall carefully and diligently collect or cause to be collected the several assessments forfeitures penalties sums of money and compositions directed and allowed to be received and taken within the same by virtue of this Act within the year for which he is appointed surveyor, and shall keep one or more book or books in which he shall fairly enter a just true and fair account of all such money as shall have come to his hands or to the hands of the said assistant, in respect of such parish township or place by virtue and for the purposes of this Act, and to whom and on what occasion he shall have paid or applied the same; and shall also enter in such book or books a list or lists of all such sums of money as shall then remain due and owing from any person or persons in respect of the payments compositions assessments penalties or forfeitures to be collected received or taken for and in respect of the said highways by virtue of this Act; and the said surveyor shall also enter in the said book or books an account of all tools materials implements and other things provided or to be provided by order of the inhabitants, at a vestry or other publick meeting for the repair of the said highways at the publick expence of such parish township or place; and shall produce such books and the assessments made within that year for the purposes of this Act unto the inhabitants of the parish township or place to which they belong, at a vestry or other publick meeting to be held for that purpose within fifteen days before the said special sessions so to be held in the week next after *Michaelmas* quarter sessions as aforesaid, to the intent that the said accounts assessments and lists may be inspected by the inhabitants of such parish township or place respectively; and every such surveyor shall after the said books and assessments shall have been produced at such meeting, take the same to such justice of the peace for the limit wherein such parish township or place doth lie, on such day and at such hour as shall be agreed upon at such meeting and some day after the said meeting of the inhabitants and before such last-mentioned special sessions, and then and there verify such account or any part thereof upon oath if required; and such justice may allow such account if he finds it just, or postpone it until such spe-

(17.) A Mandamus to make such Rate refused, after a length of time, which appeared to the Court unreasonable. R. v. Inhabitants of Lancashire, 8 E. 366.

(18.) Where two Townships of a Parish repaired their Highways separately, and the Indictment was against the Parish for non-repair of a Road in one of the Townships, the Inhabitants of the other not having any Notice thereof, a special Mandamus was granted to levy the Fine upon the Township separately liable. R. v. Townsend, Doug. 405. (421)—and see Rex v. Justices of Lancashire, 12 E. 366.

cial sessions if he finds cause for so doing, in which case it may be settled and allowed at such special sessions after the parts objected to by such justice shall have been explained and verified by proper evidence to the satisfaction of the justices at such special sessions; and in case any articles contained in such accounts shall not be explained and proved to the satisfaction of such justices they may disallow the same; and whenever the said accounts shall be so settled and allowed or disallowed as aforesaid, all such books and assessments shall be transmitted to the churchwarden or overseer of the poor for such parish township or place respectively, or if the place be extraparochial then to some principal inhabitant thereof, to be kept for the use of such parish township or place; and the said surveyor shall forthwith deliver a duplicate of such book and account, together with all sums of money as shall remain in his hands, and likewise all tools materials implements and other things as aforesaid to the succeeding surveyor for such parish township or place in case any new surveyor shall be appointed, or retain the same in his hands and account for them in his next account if he shall be continued surveyor of such parish township or place in the succeeding year; and it shall and may be lawful for the succeeding surveyor and he is hereby authorised and required to recover collect and receive all such sums of money which shall be due and owing as aforesaid by all such ways and means, as fully and effectually to all intents and purposes as the preceding surveyor could might or ought to have recovered collected or received the same: and in case such surveyor shall neglect to provide such book or books or to enter such respective accounts and lists therein or to deliver the said book or books and such duplicate thereof and such assessments tools materials implements and other things in manner aforesaid, he shall for every such offence forfeit any sum not exceeding five pounds nor less than forty shillings; and in case he shall make default in the paying or accounting for the money so remaining in his hands within the time and according to the directions aforesaid, he shall forfeit double the value of the money which shall be adjudged by the said justices to be in his hands; and in case any such surveyor shall die before such respective accounts and lists shall be made out or such monies books assessments tools materials and implements shall be so delivered and paid, the executors or administrators of such surveyor shall make out pay and deliver the same in like manner and under the like penalty as such surveyor is hereby required and made subject and liable to; and every surveyor shall pay to the justices' clerks for the appointment and charge the sum of one shilling; for the bond six pence; and for the account so to be examined and taken and for the oath so to be administered the sum of one shilling and no more; and if any person or persons shall receive any greater sum or fee for the business aforesaid than herein-before mentioned he shall forfeit the sum of ten pounds for every offence.

Surveyor liable to Forfeitures.

If Surveyor dies, his Executors, &c. shall account.

Fees to Justices' Clerks.

XLIX. And be it further enacted, That in every parish township or place where a sufficient quantity of stone gravel chalk or other materials cannot be provided and carried by the labourers and teams required by this Act to perform statute-duty; within such parish township or place, the said surveyor shall and is hereby required to contract for the getting and carrying thereof (in the presence of the said assistant if any such shall be appointed) at a meeting to be held for that purpose, of which ten days' notice in writing shall be given by fixing the same upon the door of the church or chapel of such parish township or place, or if there be no church or chapel at the most public place there; which notice shall specify the work to be done and the time and place for letting thereof; and if any surveyor shall have any part share or interest directly or indirectly in any such contract, or in any other contract or bargain for work or materials to be made done or provided upon for or on account of any of the highways roads bridges or other works whatsoever under his care or management, or shall upon his own account directly or indirectly let to hire any team or sell or dispose of any timber stone or other materials to be used or employed in making or repairing such roads bridges or other works as aforesaid (unless a licence in writing for the sale of

Surveyor may contract for getting and carrying Materials.

If Surveyor has a Share in any Contract, &c. without Licence, &c. he shall forfeit 10*l.* &c.

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any such materials or to let to hire any such team be first obtained from some justice of the peace within that limit), he shall forfeit for every such offence the sum of ten pounds, and be for ever after incapable of being employed as a surveyor with a salary under the authority of this Act.

shall forfeit 5*l.* when no Penalty is imposed.

L. And be it further enacted, That if any surveyor of the highways after his acceptance of the said office shall neglect his duty in any thing required of him by this Act for which no particular penalty is imposed, he shall forfeit for every such offence any sum not exceeding five pounds nor less than ten shillings at the discretion of the justice or justices having jurisdiction therein.

Persons enfeoffed with Lands for Maintenance of Causeways, &c. shall let them at the most improved Value.

LI. And be it further enacted, That where any lands have been or shall be given for the maintenance of causeways pavements highways and bridges, all such persons who are or shall be enfeoffed or trusted with any such lands, shall let them to farm at the most improved yearly value without fine; and that the justices of the peace in their open sessions shall and may inquire by such ways and means as they shall think fitting into the value of all such lands so given or to be given, and order the improvement and employment of the rents and profits thereof according to the will and direction of the donor of such lands, if they find that the persons so intrusted have been negligent or faulty in the performance or trust (except such lands have been given for the uses aforesaid to any college or hall in either of the universities of this kingdom which have visitors of their own); any law statute usage or custom to the contrary notwithstanding.

Penalty on damaging Banks, &c.

LII. 'And whereas in some places it hath been and may be found 'necessary and the surveyors are hereby authorised and required to 'secure horse causeways and foot causeways by posts blocks or great 'stones fixed in the ground or by banks of earth cast up or otherwise 'from being broken up and spoiled with waggons wains carts or car-'riages; and forasmuch as several evil-disposed persons do or may wil-'fully or wantonly pull up cut down and remove or damage the said 'posts blocks and great stones so fixed or to be fixed as aforesaid, and 'drive carriages upon such banks and causeways or against the sides 'thereof, and also dig or cast down the said banks which are the securi-'ties and defence of the said causeways, whereby the causeways or banks 'are often ruined and destroyed; and such evil-disposed persons do or 'may break damage or throw down the stones bricks or wood fixed upon 'the parapets or battlements of bridges, and do or may pull down de-'stroy obliterate or deface any mile stone or post graduated or direction 'post or stone erected or to be erected upon any highway:' For prevention thereof be it enacted, That every person who shall be guilty of any such offence shall upon complaint thereof made to any justice of the peace of the limit where the same shall be proved to be done, by the oath of any one credible witness or upon view of the justice himself, forfeit for every of the said offences any sum not exceeding five pounds nor less than ten shillings; and in default of payment thereof shall be committed to the house of correction of such limit, there to be whipped and kept to hard labour for any time not exceeding one calendar month nor less than seven days, at the discretion of such justice.

Justices of Cities, &c.

LIII. And be it further enacted, That the justices of the peace of all cities corporations boroughs and other places are hereby required to put in execution every part of this Act within their respective jurisdictions.

Justices of Cities or Boroughs not to allow Salaries to Surveyors, except, &c.

LIV. Provided always and be it further enacted, That nothing in this Act contained shall authorise or empower or be deemed construed or taken to authorise and empower any justice or justices of the peace for any city town corporate or borough, to fix or allow any salary to or for any surveyor to be appointed by any such justice or justices other than and except such salary as shall be settled and agreed upon by two parts out of three of the persons assembled in the parish township or place within such city town corporate or borough for which such surveyor shall be appointed pursuant to the directions of this Act.

Number of Horses for

LV. 'And whereas the highways not being turnpike roads are much

'prejudiced by the narrowness of the wheels of the several carriages travelling thereon and by the excessive burthens loaded in such carriages;' Be it enacted, That no waggon having the sole or bottom of the fellies of the wheels of the breadth of nine inches shall go or be drawn with more than eight horses; and that no cart having the sole or bottom of the fellies of the wheels thereof of the breadth of nine inches shall go or be drawn with more than five horses; and that no waggon having the sole or bottom of the fellies of the wheels of the breadth of six inches and rolling on each side a surface of nine inches shall go or be drawn with more than seven horses; and that no such waggon rolling a surface of six inches only shall go or be drawn with more than six horses; and that no cart having the sole or bottom of the fellies of the wheels of the breadth of six inches shall go and be drawn with more than four horses; and that no waggon having the sole or bottom of the fellies of the wheels of less breadth than six inches shall go or be drawn with more than five horses; and that no cart having the sole or bottom of the fellies of the wheels of less breadth than six inches shall go or be drawn with more than three horses upon such highways under the pains penalties and forfeitures herein-after mentioned; (that is to say) That the owner of such waggon or cart respectively shall forfeit the sum of five pounds, and the driver not being the owner the sum of ten shillings for every horse or beast which shall be so drawing above the number hereby so respectively limited as aforesaid to the sole use and benefit of the informer; but carriages moving upon wheels or rollers of the breadth of sixteen inches on each side thereof with flat surfaces are hereby allowed to be drawn with any number of horses or other cattle.

Waggons and Carts with different Wheels.

LVI. Provided always and be it enacted, That no prosecution shall be commenced before a justice of peace by way of information for any forfeiture incurred by the owner or driver of any carriage having a greater number of horses therein than are allowed by this Act, unless such information be laid within three days after the offence committed; and that no action shall be commenced for any such offence unless the same be commenced within one calendar month after the offence committed; and that neither such information or action shall be laid or commenced unless notice shall be given by the informer to the driver of every such carriage, on the day upon which the offence shall be committed, of an intention to complain of such offence; and if it shall appear to the justice before whom such complaint shall be made that the offender lives so remote as to make it inconvenient to summon him to appear before such justice, the justice may dismiss the complaint and leave the informer to his remedy by action at law.

Prosecutions for additional Number of Horses.

LVII. Provided always and be it further enacted, That it shall and may be lawful for the justices of the peace at their respective general quarter sessions of the peace to be held in the week after *Michaelmas* to licence in such manner and for such time as they shall think fit an increase of the number of horses to be drawn in carriages up any steep hill or on any road not turnpike within their respective jurisdictions, over and above the number herein-before limited if upon inquiry into the state and condition of such roads they shall find any additional number of horses necessary; and from time to time at any *Michaelmas* quarter sessions to revoke alter or vary the same as they shall think fit.

Justices may licence an Increase of Horses,

LVIII. Provided always and be it further enacted, That if it shall appear upon the oaths of credible witnesses to the satisfaction of any justice or justices of the peace or of any court of justice authorised to enforce the execution of this Act, that any waggon cart or carriage could not by reason of deep snow or ice be drawn by the number of horses or beasts of draught hereby respectively allowed; then and in every such case it shall and may be lawful for such justice or justices of the peace or court respectively, and they are hereby respectively required to stop all proceedings before them respectively for the recovery of any penalty or forfeiture which may have been incurred by drawing with a greater number of horses or beasts of draught than are hereby allowed; any

and stop Proceedings when necessary.

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thing herein contained to the contrary notwithstanding: Provided also, That the regulations herein-before mentioned concerning the number of horses and wheels of carriages shall not be deemed or construed to extend to carts waggons or other carriages employed only in carrying any one stone block of marble cable rope or piece of metal or piece of timber, or to such ammunition or artillery as shall be for his Majesty's service; and that two oxen or horned cattle shall for all the purposes of this Act be considered as one horse.

Carriages excepted out of this Act.

Two Oxen to be considered as one Horse.

Owner's Name, &c. to be painted on all Waggons, &c. let to Hire.

LIX. 'And for the better discovery of offenders against this present 'Act,' Be it enacted, That the owner of every waggon wain or cart, and also of every coach post chaise or other carriage let to hire, shall paint or cause to be painted upon some conspicuous part of his waggon wain or cart, and upon the pannels of the doors of all such coaches post chaises or other carriages before the same shall be used upon any publick highway, his or her christian and surname and the place of his or her abode in large legible letters, and continue the same thereupon so long as such waggon cart coach post chaise or other carriage shall be used upon any such highway; and the owner of every common stage waggon or cart employed as travelling stages from town to town, shall over and above his or her christian and surname paint or cause to be painted on the part and in the manner aforesaid the following words, *Common Stage Waggon* or *Cart* as the case may be; and every person using any such carriage as aforesaid upon any highway without the names and descriptions painted thereon respectively as aforesaid, or who shall paint or cause to be painted any false or fictitious name or place of abode, on such waggon wain cart coach post chaise or other carriage, shall forfeit for every such offence a sum not exceeding five pounds nor less than twenty shillings.

Drivers of Carriages punishable.

LX. 'And whereas many bad accidents happen and great mischiefs are 'frequently done upon the streets and highways by the negligence or wilful 'misbehaviour of persons driving carriages thereon;' Be it therefore further enacted, That if the driver of any cart car dray or waggon shall ride upon any such carriage in any street or highway, not having some other person on foot or on horseback to guide the same (such carriages as are conducted by some person holding the reins of the horse or horses drawing the same excepted); or if the driver of any carriage whatsoever on any part of any street or highway shall by negligence or wilful misbehaviour cause any hurt or damage to any person or carriage passing or being upon such street or highway, or shall quit the highway and go on the other side the hedge or fence inclosing the same; or wilfully be at such distance from such carriage whilst it shall be passing upon such highway that he cannot have the direction and government of the horses or cattle drawing the same; or shall by negligence or wilful misbehaviour prevent hinder or interrupt the free passage of any other carriage or of his Majesty's subjects on the said highways; or if the driver of any empty or unloaded waggon cart or other carriage shall refuse or neglect to turn aside and make way for any coach chariot chaise loaded waggon cart or other loaded carriage; or if any person shall drive or act as the driver of any such coach post chaise or other carriage let for hire, or waggon wain or cart not having the owner's name as before required painted thereon, or shall refuse to discover the true christian and surname of the owner of such respective carriages, every such driver so offending in any of the cases aforesaid and being convicted of any such offence either by his own confession, the view of a justice of peace, or by the oath of one or more credible witness or witnesses before any justice of the peace of the limit where such offence shall be committed, shall for every such offence forfeit any sum not exceeding ten shillings in case such driver shall not be the owner of such carriage; and in case the offender be owner of such carriage then any sum not exceeding twenty shillings: and in either of the said cases shall

in default of payment be committed to the house of correction for any time not exceeding one month, unless the same shall be sooner paid; and every such driver offending in either of the said cases shall and may by authority of this Act with or without any warrant be apprehended by any person or persons who shall see such offence committed, and shall be immediately conveyed or delivered to a constable or other peace officer in order to be conveyed before some justice of the peace to be dealt with according to law: and if any such driver in any of the cases aforesaid shall refuse to discover his name it shall and may be lawful for the justice of the peace before whom he shall be taken or to whom any such complaint shall be made to commit him to the house of correction for any time not exceeding three months, or to proceed against him for the penalty aforesaid by a description of his person and the offence, and expressing in such proceedings that he refused to discover his name

Justices may hold and adjourn Special Sessions, &c.

LXI. And be it further enacted, That it shall and may be lawful for any two or more justices of the peace within their respective limits (19.) and they are hereby empowered from time to time whenever they shall judge proper to hold any special sessions besides that which is herein-before directed for executing the purposes of this Act, and to adjourn the same from time to time as they shall think fit, causing notice to be given of the time and place of holding such special sessions and of the adjournments thereof to the several justices acting and residing within such limits by the high constable or other proper officer within the same.

Alehouses, &c. not to be kept on Bridges where Tolls are taken.

LXII. 'And for preventing obstructions which frequently happen by 'stopping of carriages on or near publick bridges,' Be it further enacted, That if any person or persons collecting any tolls payable for passing over any publick bridge with carriages or cattle of any kind shall keep any victualling-house alehouse or other place of publick entertainment, or shall sell or permit to be sold therein any wine beer ale cyder spirituous liquors or other strong liquors by retail, he she or they being lawfully convicted of such offence by the oath of one or more credible witness or witnesses or by his own confession before any justice of the peace of the limit wherein such offence shall be committed, shall for every such offence forfeit the sum of five pounds. (20.)

Penalty for encroaching on Highways.

LXIII. 'And whereas inconveniences have arisen from making hedges 'or other fences and from ploughing or breaking up the soil of lands 'or grounds near the middle or centre of highways:' For remedy thereof, be it enacted, That if any person shall encroach by making or causing to be made any hedge ditch or other fence on any highway not being turnpike road within the distance of fifteen feet from the middle or centre thereof, or shall plough harrow or break up the soil of any land or ground, or in ploughing or harrowing the adjacent lands shall turn his plough in or upon any land or ground within the distance of fifteen feet from the middle or centre of any highway where the breadth of such highway is formed and marked or described with certainty and does not exceed in breadth thirty feet, every person so offending shall forfeit for every such offence forty shillings to such person who shall make information of the same; and it shall be lawful for the surveyor who hath the care of any such road to cause such hedge ditch or fence to be taken down or filled up at the expence of the person or persons to whom the same shall belong: And it shall and may be lawful for any one or more justice or justices of the peace of the limit where such offence shall be committed, upon proof to him or them made upon oath, to levy as well the expences of taking down such hedges as aforesaid as the several and respective

(19.) The reference to particular limits is only directory. Any Justice of the County may exercise the Powers of the Act in any Part of it. See Welsh *v.* Nash, 8 E. 399.

(20.) The 13 Geo. 3. c. 78. § 62. is applicable to proceedings by order of two Justices under 55 Geo. 3. c. 68. § 2. Held, therefore, that it is necessary to give reasonable notice of the special Sessions, at which any such Order is to be made, to the several Justices acting and residing within the divisions; and that unless such notices be given, the Sessions ought not to confirm and enrol such Order, even though there be no appeal against it. Rex *v.* Worcestershire (Justices), 2 B. & A. 228.

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penalties hereby imposed by distress and sale of the offender's goods and chattels in such manner as distresses and sales for forfeitures are authorised and directed to be levied by virtue of this Act.

Court may award Costs.

LXIV. And be it further enacted, That it shall and may be lawful for the court before whom any indictment or presentment shall be tried (21.) for not repairing highways to award costs (22.) to the prosecutor to be paid by the person or persons so indicted or presented, if it shall appear to the said court that the defence made to such indictment or presentment was frivolous; or to award costs to the person indicted or presented, to be paid by the prosecutor, if it shall appear to the said court that such prosecution was vexatious.

Expences for Prosecutions, agreed upon at a Vestry Meeting, how to be paid.

LXV. And be it further enacted, That if the inhabitants of any parish township or place shall agree at a vestry or publick meeting to prosecute any person by indictment for not repairing any highway within such parish township or place which they apprehend such person was obliged by law to repair, or for committing any nuisance upon any highways, or shall agree at such vestry meeting to defend any indictment or presentment preferred against any such parish township or place, it shall and may be lawful for the surveyor of such parish township or place to charge in his account the reasonable expences incurred in carrying on or defending such respective prosecutions after the same shall have been agreed to by such inhabitants at a vestry or publick meeting or allowed by a justice of the peace within the limit where such highway shall be; which expences when so agreed to or allowed shall be paid by such parish township or place out of the fines forfeitures compositions payments and assessments authorised to be collected and raised by virtue of this Act.

Notice required for publick Meetings.

LXVI. And be it further enacted, That in all cases where a vestry or publick meeting of the inhabitants of any parish township or place is authorised or directed by this Act, there shall be publick notice given of the day hour and place of holding the said meeting, at the church or chapel of such parish township or place on the *Sunday* next preceding such meeting, and also notice thereof in writing specifying the purpose of such meeting fixed at the same time upon the door of such church or chapel, and the same shall not be held till three days at least after such notice given; and if there be no church or chapel the like notice of such meeting shall be given in writing and put up at the most publick place therein three days at least before such meeting.

Sums assessed may be levied.

LXVII. And be it further enacted, That if any person shall refuse or neglect to pay the sum or sums assessed upon him by any assessment to be made in pursuance of this Act within ten days after demand thereof made, the same shall and may be levied by the surveyor or any other person or persons authorised by warrant under the hand and seal of one justice of the peace having jurisdiction therein by distress and sale of the goods and chattels of the person so refusing or neglecting, rendering the overplus to the owner or owners thereof, the necessary charges of making such distress and sale being first deducted; and in default of such distress it shall be lawful for any such justice to commit the person so refusing or neglecting to the common gaol, there to remain until he shall have paid the sum so assessed and the costs and charges occasioned by such neglect or refusal.

Surveyor may be a Witness.

LXVIII. And be it further enacted, That the surveyor of any parish township or place shall be deemed in all cases a competent witness in all matters relative to the execution of this Act, notwithstanding his salary may arise in part from the forfeitures and penalties hereby inflicted.

Forms of Proceedings.

LXIX. And be it further enacted, That the forms of proceedings relative to the several matters contained in this Act which are set forth and expressed in the schedule hereunto annexed (23.) shall be used upon

(21.) If the Case is tried at Nisi Prius, the Power can be only exercised by the Judge at Nisi Prius, and not by the Court of B. R. R. *v.* Chaddarton, 5 T. R. 272.

(22.) A Certificate that the Defence was frivolous is a sufficient Award of Costs. R. *v.* Clifton, 6 T. R. 344.

(23.) This is imperative: see Davidson *v.* Gill, 1 East, 64: referred to ante, Sec. 16.

all occasions with such additions or variations only as may be necessary to adapt them to the particular exigencies of the case; and that no objection shall be made or advantage taken for want of form in any such proceedings by any person or persons whomsoever.

Printed Abstracts to Surveyors.

LXX. 'And in order to have the contents of this Act more generally 'communicated and known,' Be it further enacted, That the justices of the peace within their respective limits shall at every special sessions to be held in the week next after the *Michaelmas* general quarter sessions of the peace procure and deliver or cause to be procured and delivered a printed abstract of the most material parts of this Act to every surveyor to be then appointed by them respectively as the charge hereby directed to be given; and shall also at their said special sessions to be held in the year one thousand seven hundred and seventy-three deliver or cause to be delivered to every of the said surveyors one other of the said printed abstracts of this Act for the use of the parish township or place for which the said surveyor shall be appointed; which last-mentioned abstract the said surveyors are hereby respectively ordered and required to fix on the church or chapel door or other publick place within their respective liberties on the next *Sunday* after they shall so receive the same; and the said surveyors shall severally pay to the said justices' clerks the sum of six pence for each of the said last-mentioned printed abstracts.

One to be fixed on the Church Door.

Persons resisting the Execution of this Act, or Constables refusing to obey, &c. forfeit not exceeding 10*l.* nor less than 40*s.*

LXXI. And be it further enacted, That in case any person or persons shall resist or make forcible opposition against any person or persons employed in the due execution of this Act; or make any rescue of the cattle or other goods distrained by virtue of this Act; or if any constable headborough or tythingman shall refuse or neglect to execute or obey any warrant or precept granted by any justice of the peace pursuant to the directions of this Act; every such person offending therein and being convicted thereof by a justice of the peace shall for every such offence forfeit any sum not exceeding ten pounds nor less than forty shillings at the discretion of the justice before whom he or she shall be so convicted; to be paid to the surveyor of the highways for the parish township or place where the offence was committed, to be laid out in the repair of the highways: and in case he or she do not forthwith pay or secure to be paid the said forfeiture after such conviction, then it shall and may be lawful for such justice of the peace to commit such person or persons to the common gaol or house of correction of the limit where such offence shall be committed, there to remain for any time not exceeding three months unless the said forfeiture shall be sooner paid.

Forfeitures, Costs, and Charges, may be levied.

LXXII. And be it further enacted, That all penalties and forfeitures by this Act imposed for any offence against the same and all costs and charges to be allowed and ordered by the authority of this Act (the manner of levying and recovering of which is not hereby otherwise particularly directed) shall be levied by distress and sale of the goods and chattels of the offender or person liable or ordered to pay the same respectively by warrant under the hand and seal of some justice of the peace for the limit where such offence neglect or default shall happen or such order for payment of such costs or charges shall be made, rendering the overplus of such distress (if any be) to the party or parties after deducting the charges of making the same; which warrant such justice is hereby empowered and required to grant upon conviction of the offender by confession or upon the oath of one or more credible witness or witnesses or upon order made as aforesaid; and the penalties and forfeitures when so levied shall be paid the one half to the informer and the other half to the surveyor of the highway where such offence neglect or default shall happen; to be applied towards the repair thereof unless otherwise directed by this Act; but in case the surveyor shall be the informer then the whole shall be employed towards the repair of such highway: and in case such distress cannot be found and such penalties and forfeitures or the said costs and charges shall not be forthwith paid, it shall and may be lawful for such justice and he is hereby authorised and required by warrant under his hand and seal to commit such offender or offenders or person or persons liable to pay the same respectively to the common

In what Manner to be applied.

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gaol or house of correction of the limit where the offence shall be committed or such order as aforesaid shall be made for any time not exceeding three months unless the said penalty forfeiture costs and charges shall respectively be sooner paid; and if such offender or offenders or person or persons liable or ordered to pay the same respectively shall live out of the jurisdiction of the justice hereby authorised to grant such warrant, it shall and may be lawful for any justice of the peace of the limit wherein such person shall inhabit and every such justice is hereby required, upon request to him for that purpose made and upon a true copy of the conviction whereby such forfeiture or penalty was incurred and of the order for the payment of such costs and charges produced and proved by a credible witness upon oath, by warrant under his hand and seal to cause the penalty or forfeiture mentioned in such conviction and the costs and charges mentioned in such order or so much thereof as shall not have been paid to be levied by distress and sale of the goods and chattels of such offender or offenders or person or persons liable or ordered to pay the same respectively as aforesaid; and if no sufficient distress can be had to commit such offender or offenders or person or persons liable as aforesaid to the common gaol or house of correction of such limit for the time and in manner aforesaid.

How to proceed when the Offender lives within another Jurisdiction.

Warrant of Distress when to be issued.

LXXIII. Provided nevertheless, That no warrant of distress unless otherwise directed by this Act shall be issued for levying any penalty or forfeiture costs or charges until six days after the offender shall have been convicted and an order made and served upon him or her for payment thereof.

Prosecutor to proceed by Information, or by Action.

LXXIV. Provided also and be it further enacted, That every prosecutor or informer may at his election sue for and recover any forfeiture or penalty imposed by this Act which shall amount to the sum of forty shillings or upwards (the manner of recovery thereof not being particularly directed by this Act), either in the manner herein-before directed or by action at law to be brought by such informer or prosecutor in any of his Majesty's courts of record in manner following; (that is to say) Where any person shall be liable to any such pecuniary penalty it shall and may be lawful to sue for and recover the same by action of debt, in which it shall be sufficient to declare that the defendant is indebted to the plaintiff in the sum of being forfeited by an Act passed in the thirteenth year of the reign of his present Majesty, intituled "An Act to explain amend and reduce into one Act of Parliament the Statutes now in being for the Amendment and Preservation of the publick Highways within that Part of *Great Britain* called *England*, and for other Purposes;" and the plaintiff if he recovers in any such actions shall have double costs.

Within what Time Actions are to be commenced, &c.

LXXV. Provided, That there shall not be more than one recovery for the same offence; and that ten days' notice in writing be given to the party offending previous to the commencement of such action; and that the same be brought and commenced within one calendar month after the offence for which such action is brought shall have been committed.

Convictions.

LXXVI. Provided also and be it further enacted, That no conviction shall be had or made by virtue of this Act unless upon confession of the party accused or upon the oath of one or more credible witness or witnesses or upon the view of a justice of peace in the cases before mentioned; and that any inhabitant of any parish township or place in which any offence shall be committed contrary to this Act shall be deemed a competent witness notwithstanding his or her being an inhabitant of such parish township or place.

Inhabitant a good Witness.

Justice may administer Oaths.

LXXVII. And be it further enacted, That it shall and may be lawful for any justice of the peace to administer an oath to any witness or witnesses or other person or persons, for the better discovery and execution of the several matters or things herein-before authorised or directed to be examined inquired into or performed by such justice.

Satisfaction recoverable for Special Damages, &c.

LXXVIII. And be it further enacted, That where any distress shall be made for any sum or sums of money to be levied by virtue of this Act, the distress itself shall not be deemed unlawful nor the party or par-

ties making the same be deemed a trespasser or trespassers on account of any default or want of form in any proceedings relating thereto, nor shall the party or parties distraining be deemed a trespasser or trespassers *ab initio* on account of any irregularity which shall be afterwards done by the party or parties distraining, but the person or persons aggrieved by such irregularity may recover full satisfaction for the special damage in an action on the case.

Plaintiffs not to recover for Irregularity, if Tender have been made.

LXXIX. Provided always, That no plaintiff or plaintiffs shall recover in any action for any irregularity trespass or wrongful proceedings, if tender of sufficient amends shall be made by or on the behalf of the party or parties who shall have committed or caused to be committed any such irregularity trespass or wrongful proceedings, before such action brought; and in case no such tender shall have been made, it shall and may be lawful for the defendant in any such action, by leave of the court where such action shall depend, at any time before issue joined to pay into court such sum of money as he or they shall see fit, whereupon such proceedings or orders and judgment shall be had made and given in and by such court as in other actions where the defendant is allowed to pay money into court.

Appeal.

LXXX. Provided also and be it further enacted, That if any person shall think himself or herself aggrieved by any thing done by any justice or justices of the peace or other person in the execution of any of the powers given by this Act, and for which no particular method of relief hath been already appointed; (24.) every such person may appeal to the justices of the peace at any general quarter sessions of the peace to be held for the limit wherein the cause of such complaint shall arise, such appellant giving or causing to be given notice (25.) in writing of his or her intention to bring such appeal and of the matter thereof to the justice or other person or persons against whom such complaint shall be made within six days after the cause of such complaint arose, and within four days after such notice entering into recognisance before some justice of the peace within such limit, with one sufficient surety conditioned to try such appeal at and abide the order of and pay such costs as shall be awarded by the justices at such quarter session; and every justice of the peace and other person having received notice of such appeal as aforesaid shall return all proceedings whatsoever had before them respectively touching the matter of such appeal to the said justices at their general quarter sessions aforesaid on pain of forfeiting five pounds for every such neglect; and the said justices at such sessions upon due proof of such notice being given as aforesaid and of the entering into such recognisance shall hear and finally determine the causes and matters of such appeal in a summary way, and award such costs to the parties appealing or appealed against as they the said justices shall think proper; to be levied and recovered as herein-before directed; and the determination of such quarter session shall be final and conclusive to all intents and purposes; and that no proceedings to be had or taken in pursuance of this Act shall be quashed or vacated for want of form or removed by *certiorari* or any other writ or process whatsoever (except as herein-before mentioned) into any of his Majesty's courts of record at *Westminster*, any law or statute to the contrary notwithstanding: Provided, That no such appeal shall be made against any conviction for any penalty or forfeiture incurred by virtue of this Act, unless the person convicted shall at the time of such conviction if he or she shall be then present, if not within six days after, give notice of his or her intention to appeal, and at the same time enter into recognisance with sufficient sure-

Proceedings not quashed for Want of Form, nor removeable, &c.

(24.) This Clause does not take away the Right of Replevin where Goods are taken for Non-payment of an Assessment out of the Parish, &c. Fenton *v.* Bayle, 2 N. R. 399.

(25.) The Notice of Appeal required by 13 Geo. 3. c. 78. § 80. against a Distress for non-payment of a Highway Rate, may be within Six Days after the Levy, and need not be within Six Days after the granting the Warrant of Distress. The Notice of Appeal need not disclose the ground upon which the Appellant objects to the regularity of Distress. Rex *v.* Devon (Justices), 1 M. & S. 411.

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ties to pay such penalty or forfeiture in case such conviction shall be affirmed upon such appeal; and upon his or her giving such security, the further proceeding for such penalty or forfeiture shall be suspended until such appeal shall be heard and determined.

Limitation of Actions.

LXXXI. And be it further enacted, That if any action or suit shall be commenced against any person or persons for any thing done or acted in pursuance of this Act, then and in every such case such action or suit shall be commenced or prosecuted within three calendar months after the fact committed (26.) and not afterwards; and the same and every such action or suit shall be brought within the county where the fact was committed and not elsewhere; and the defendant or defendants in every such action or suit shall and may plead the general issue and give this Act and the special matter in evidence at any trial to be had thereupon, and that the same was done in pursuance and by the authority of this present Act: and if the same shall appear to have been so done, or if any such action or suit shall be brought after the time limited for bringing the same, or be brought or laid in any other place than as aforementioned, then the jury shall find for the defendant or defendants; or if the plaintiff or plaintiffs shall become nonsuit or discontinue his her or their action after the defendant or defendants shall have appeared, or if upon demurrer judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall and may recover treble costs and have the like remedy for recovery thereof as any defendant or defendants hath or have in any other cases by law.

General Issue.

Treble Costs.

LXXXII. And be it further enacted, That this Act shall commence and take place with respect to the assembling of the householders and others and the making and delivering of lists of persons qualified to serve the office of surveyor and the giving notices to the persons contained in such lists upon the twenty-first day of *September* one thousand seven hundred and seventy-three; and with respect to all the other matters and things herein contained on the eleventh day of *October* one thousand seven hundred and seventy-three.

7 Geo. 3. repealed.

LXXXIII. 'And to the intent that there may be only one law subsisting for the several purposes aforesaid,' Be it further enacted and declared, That from and after the tenth day of *October* one thousand seven hundred and seventy-three, an Act passed in the seventh year of the reign of his present Majesty, intituled "An Act to explain amend and reduce into one Act of Parliament the several Statutes now in being for the Amendment and Preservation of the publick Highways of this Kingdom and for other Purposes therein mentioned," except so much thereof as repeals the several Acts and parts of Acts therein mentioned which are not revived by an Act passed in the eighth year of the reign of his present Majesty, intituled "An Act to explain amend and render more effectual an Act passed in the seventh year of his present Majesty's reign, intituled 'An Act to explain amend and reduce into one Act of Parliament the several Statutes now in being for the Amendment and Preservation of the publick Highways of this Kingdom and for other Purposes therein mentioned,'" shall be and the same is hereby repealed.

8 Geo. 3. c. 5.

LXXXIV. Provided nevertheless, That the several surveyors appointed under the authority of the said Act passed in the seventh year of the reign of his present Majesty shall produce such books and lists and pass their accounts before the justices at their respective special sessions to be holden within their respective limits in the week next after the *Michaelmas* quarter sessions in the year one thousand seven hundred and seventy-three, and pay the balances thereof in such manner as they ought to have done at the special sessions which was by the said Act to have been held on the first *Monday* in *October* or within fifteen days after; and if the justices shall appoint any surveyor or surveyors under the authority of the said Act such appointment shall be void and of no effect.

(26.) An Action on the Case for weakening the Foundation of a Wall, whereby it fell, may be brought within Three Months after the consequential Damage which is the Cause of Action. Roberts *v.* Read, 16 E. 215.

LXXXV. Provided always and be it further enacted by the authority aforesaid, That nothing in this Act contained touching the making and returning lists of persons qualified to be surveyors of the highways and the appointment of such surveyors, nor the repeal of part of an Act made in the third year of King *William* and Queen *Mary* relating to such surveyors, shall extend or be construed deemed or taken to extend to the city of *Bristol;* but that the several Acts of Parliament which have been passed previous to this Act relative to surveyors of the highways and to cleansing paving lighting and regulating the streets and other places within the said city shall remain in full force and be executed in as full and ample manner and form to all intents and purposes as the same might or ought to have been if this Act had never been made.

Exceptions relative to Bristol;

LXXXVI. Provided also, That nothing in this Act contained shall extend or be deemed or construed to extend to the parish of *Saint Mary Matfelon* otherwise *Whitechapel* and *Saint John of Wapping* in the county of *Middlesex* or either of them.

and Saint Mary Matfelon, &c.

LXXXVII. Provided always and be it further enacted, That nothing in this Act contained shall extend or be deemed or construed to extend to alter restrain or abridge the powers or authorities given to the commissioners of sewers by any Act or Acts of Parliament whatsoever, or to vary or alter any of the provisions or regulations thereby made directed or provided; any thing herein contained to the contrary thereof in any wise notwithstanding.

Powers of Commissioners of Sewers not abridged.

The Schedule (stating the Forms) to which this Act refers.

No. I. Warrant for calling the Meeting of the Householders, &c. and for fixing that of the Justices for appointing Surveyors.

Middlesex. *To the Constables, Headboroughs, and Tithingmen, within the* (Hundred) Riding) Division) Liberty) *or* Precinct) as the case shall be) *of* *in the said County.*

IN order to carry into execution an Act made in the thirteenth year of the reign of his Majesty King George the Third *for the Amendment and Preservation of the publick Highways,* you are hereby severally required forthwith to give publick notice to the churchwardens surveyors of the highways and householders being assessed to any parochial or publick rate within your respective liberties, that they do assemble on the twenty-second day of *September* next at the church or chapel, or if there shall be no church or chapel then at the usual place of publick meetings within their respective liberties at the hour of eleven in the forenoon; and that the major part of them so assembled do make a list of the names of at least ten persons living therein who each of them have an estate in lands tenements or hereditaments lying within the same, in their own right or in right of their wives of the value of ten pounds by the year; or a personal estate of the value of one hundred pounds; or are occupiers or tenants of houses lands tenements or hereditaments of the yearly value of thirty pounds: and if there shall not be ten persons having such qualifications, then that they do insert in such list the names of so many of such persons as are so qualified, together with the names of the most sufficient and able inhabitants not so qualified as shall make up the number ten if so many can be found, if not, so many as shall be there resident to serve the office of surveyor of the highways: and you are also severally required within three days after making the said list to deliver a copy thereof to one of the justices of peace of the said *(hundred) riding) division,* &c.) *as the case shall be)* living in or near the same *(parish,* &c.) and also to give personal notices to or cause notices in writing to be left at the places of abode of the several persons contained in such list informing them of their being so named, to the intent that they may severally appear before the said justices at their special sessions to be holden at within the said *(hundred,* &c.) on the

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day of now next ensuing, at the hour of in the forenoon of the same day, to accept such office if they shall be appointed thereto, or to shew cause if they have any against their being appointed; and you are likewise to give notice to the present surveyors of the highways within your respective liberties to appear at the same time and place and produce such accounts and lists before the said justices as are required by the said Act; and you and each of you are personally to appear before the said justices at their said special sessions and then and there severally deliver to the said justices the said original list or lists taken within your respective liberties and give an account of the execution of this our precept.

Given under our hands and seals, the day of in the year of our Lord, 17

No. II. List of Persons to be returned to the Justices.

A List of the several Persons named for Surveyors of the Highways for the (insert the name of the Parish, Township or Place) *at a Meeting held at in the said* (Parish, &c.) *the Day of* 17

A. B.
C. D. &c.

This is to be added when a particular Person is recommended.

WE whose names are subscribed, being two parts in three of the persons assembled at the meeting aforesaid, do agree in the choice of *A. B.* as a fit person to serve the office of surveyor for the *(insert the parish,* &c.) aforesaid, and in the allowance to him of for his trouble in executing the same for the year ensuing; and we do recommend the said *A. B.* to the justices for their appointment accordingly.

No. III. Notice to the Persons contained in the List.

A. B. take notice, That you was at a Meeting held at *(insert the name of the parish,* &c.) on the day of named as one of the persons to be returned to the justices as fit to serve the office of surveyor for the said *(parish,* &c.) for the year ensuing; and if you have any cause to shew why you should not be appointed to serve such office you must make the same appear before the justices at their special sessions to be holden at on the day of next.

A. B. { Constable, Headborough, or Tithingman, *(as the case shall be.)*

No. IV. Order to the (*Constable,* &c.) to return to the Justices the Amount of a Sixpenny Assessment.

Middlesex. *To the* (Constable, *&c.) of*

YOU are hereby required to return to us and the other Justices to be assembled at the special sessions to be held at for the *(hundred,* &c.) of in the said county, on the day of next, the amount of the last assessment of six pence in the pound for the use of the highways within your liberty, if any such has been raised; if not, what you apprehend from the best information you can get an equal assessment of six pence in the pound upon all and every the occupiers of lands tenements woods tithes and hereditaments within the said liberty according to their yearly value will amount to.

Given under our hands this day 17

No. V. Return to the Justices of the Amount of a Sixpenny Assessment.

To the Justices assembled at their Special Sessions at the Day of 17

IN obedience to your order I do return and certify, That the last assessment of six pence in the pound for the use of the highways within the liberty of amounted to the sum of

(If no Assessment of Six Pence in the Pound hath been made, then as under.)

IN obedience to your order I do return and certify, That no assessment hath been made of six pence in the pound for the use of the highways within the liberty of but I apprehend from the best information which I have been able to get that an equal assessment of six pence in the pound upon all the occupiers of lands tenements woods tithes and hereditaments within the said liberty will amount to the sum of

A. B. (Constable, *&c.*)

No. VI. Appointment of a Surveyor.

Middlesex. *At a Special Sessions held at in the Hundred of by Justices of the Peace for the said County, acting within the said Hundred, on the Day of* 17

WE do hereby nominate and appoint *A. B.* &c. of (*insert the name of the parish, &c. where he lives*) in the said hundred Surveyor (*or* Surveyors of the Highways within the said (*parish*, &c.) for the year ensuing, (and we do allow the said *A. B.* the salary of for his trouble): and you the said *A. B.* are faithfully and truly to execute the said office of surveyor according to the directions of the statute passed in the thirteenth year of the reign of his Majesty King *George* the Third, "For the Amendment and Preservation of the Highways," an abstract of the material parts of which statute is hereunto annexed.

This is to be inserted when a Surveyor is appointed with a Salary.

Given under our hands and seals the day and year above mentioned.

No. VII. Bond from the Surveyor.

WE *A. B.* Surveyor of the Highways for the (*parish, township*, &c.) of and *C. D.* of are bound to *E. F.* of aforesaid, in the sum of pounds, to be paid to the said *E. F.* his executors administrators or assigns; for which payment we hereby bind ourselves severally, and each of our heirs executors and administrators.

Dated the day of 17

The condition of this bond is such that if the said *A. B.* his executors or administrators shall duly and faithfully account for apply and pay all and every the sum and sums of money which shall come to his hands as Surveyor of the Highways for the (*parish*, &c.) according to the direction and true intent and meaning of the statute made in the thirteenth year of the reign of his Majesty King *George* the Third, "For the Amendment and Preservation of the Highways," then this bond to be void or else to remain in full force.

No. VIII. Appointment of an Assistant to the Surveyor.

Middlesex. *At a Special Sessions held at in the Hundred of by Justices of the Peace for the said County acting within the said Hundred, on the Day of* 17

WE do hereby nominate and appoint *C. D.* a substantial inhabitant of the (*parish*, &c.) of in the said hundred Assistant to *A. B.* whom we have appointed Surveyor of the Highways

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for the said (*parish*, &c.); and you the said *C. D.* are to the best of your skill and judgment to assist the said Surveyor whenever requested by him, in calling in and attending the performance of the statute duty, in collecting the compositions fines penalties and forfeitures, and in making and collecting the assessments, and in making out and serving the notices authorised by the Act passed in the thirteenth year of the reign of his Majesty King *George* the Third, " For the Amendment and Preservation of the Highways," and in such other matters and things as shall be reasonably required of you by the said Surveyor in the execution of his office of Surveyor pursuant to the said Act; and you are justly and truly to account with and pay to the said Surveyor or to his order the money which shall come to your hands by the means aforesaid.

Given under our hands and seals the day and year above mentioned.

No. IX. Oath to be administered to the Surveyor upon passing his Accounts.

I *A. B.* do swear, That the Accounts now produced and delivered by me as Surveyor of the Highways for the (*parish*, &c.) of for the last year are just and true to the best of my knowledge.

So help me God.

No. X. Allowance of the Accounts.

October 17

THESE Accounts were examined and allowed before

No. XI. Notice from the Surveyor to remove Nuisances and Obstructions, and to cut Hedges, &c.

To C. D. of

To remove Nuisances and Obstructions.

IN pursuance of the directions given by the Act passed in the thirteenth year of the reign of his Majesty King *George* the Third, " For the Amendment and Preservation of the Highways," I *A. B.* Surveyor of the Highways for the (*parish*, &c.) of do hereby give you notice forthwith to remove the (*dung*) *timber*) *stone*, &c. placed by you in a certain part of the King's highway lying between and in the (*parish*, &c.) of to the obstruction and annoyance of the said highway: *or*, (forthwith to cut prune and plash the hedges and cut or prune the trees, and to open cleanse and scour the several ditches and watercourses belonging to you) in or near the highway, lying between and in the (*parish*, &c.) of to the intent that the water may be drained from the said highway, and that the sun and wind may not be excluded from such highway to the prejudice thereof.

To cut and prune Hedges and to cut or prune Trees, and to open and scour Ditches and Watercourses.

Dated this day of 17 *A. B.*

No. XII. Allowance of Charges and Expences paid by Surveyors, which are to be repaid by the Possessors of the Lands, &c. and Order of the Justice for that Purpose.

Middlesex. WHEREAS complaint hath been made unto me *A. B.* Esquire, one of his Majesty's Justices of the Peace of the said county, by the oath of Surveyor of the Highways for the parish of in the said county, that *C. D.* of having had due notice to cut and prune his hedges, and cleanse and scour his ditches and watercourses within or adjoining to the publick highway between and in the said parish of hath neglected to do the same within the time required by such notice, and that the said hath caused the same respectively to be cut pruned cleansed and scoured pursuant to the directions of this Act, passed in the thirteenth year of the reign of his Majesty King *George* the Third, " For the Amendment and Preservation of the Highways," and hath expended therein the sum of

as appears by an account now produced to me which I think a reasonable charge, and do therefore allow the same, and hereby order the said *C. D.* to pay the said sum of to the said within six days from the time of his being served with this order.

Given under my hand and seal, this day of 17

No. XIII. Order of a Justice of Peace to make new Drains.

Middlesex. *To* C. D. *of* *Surveyor of the Highways for the* (Parish, *&c.*) *of*

WHEREAS complaint hath been made to me *A. B.* Esquire, one of his Majesty's Justices of the Peace for the said county, that the ditch gutter or watercourse for conveying the water from the highway at in the *(parish,* &c.*)* of in the said county is not sufficient for that purpose, and that the cleansing and opening the same will not effectually carry off the said water, but that the said highway may be effectually drained and the water carried off by making a new ditch or drain through the lands or grounds of lying near the same for the length of yards, and the breadth of feet; and the said having been duly summoned to appear before me, to shew cause if he had any why the said ditch or drain should not be made, and the said not appearing, *or* (not shewing sufficient cause against the same,) and it appearing to me that such ditch or drain is necessary, I do hereby order and require you to enter into and upon the said lands of the said and there make or cause to be made a new ditch or drain of the length and breadth aforesaid, and of a convenient depth, making or tendering sufficient satisfaction to the said for the damages to be done thereby, within one calendar month after the same shall be so made; such damages to be settled and ascertained in manner directed by the Act passed in the thirteenth year of the reign of his Majesty King *George* the Third, "For the Amendment and Preservation of the Highways."

Given under my hand, this day of 17

No. XIV. Notice of Application to be made for an Assessment.

Middlesex. NOTICE is hereby given, That application will be made to the Justices of the Peace acting for the (*hundred*) of in the said county, at their Special Sessions, to be held at in the said (*hundred*), on the day of one thousand seven hundred for an equal assessment to be made, not exceeding in the pound, upon all and every the occupiers of lands, tenements, woods, tithes, and hereditaments, within the (*parish*, &c) of for the use and benefit of the highways, within the said (*parish*, &c)

Dated this day of 17

A. B. Surveyor.

No. XV. Order at a Special Sessions for an Assessment of Six Pence in the Pound.

Middlesex. *At a Special Sessions for the Highway, held at in the Hundred of in the said County, the Day of 17 by Justice of Peace for the said County acting within the said Hundred.*

UPON application made to us by the Surveyor of the Highways for the (*parish*, &c.) of and upon evidence given upon oath before us, (that the duty directed to be performed and the money authorised to be collected and received by an Act passed in the thirteenth year of the reign of his Majesty King *George* the Third, "For the Amendment and Preservation of the Highways," have been performed applied and ex-

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If no Assessment has been made for buying Materials, &c. this may amount to Nine Pence in the Pound; but if a Sixpenny Assessment had been made before, it must be only Three Pence. These latter Words may be added here, if there have been no former Assessments for those Purposes.

pended according to the directions of the said Act:) *or* (We are fully satisfied that the common highways bridges causeways streets and pavements belonging to the (*parish*, &c.) of are so far out of order, that they cannot be sufficiently amended and repaired paved cleansed and supported by the means prescribed by the said Act:) And it appearing to us, that notice has been duly given of such intended application according to the direction of the said Act, we do hereby order direct and appoint that an equal assessment, not exceeding the sum of in the pound, upon all and every the occupiers of lands tenements woods tithes and hereditaments within the said (*parish*, &c.) of shall be forthwith made by the said surveyor, and shall be allowed by one justice of the peace for the said hundred and shall be collected by the said surveyor, and that the money so to be assessed and collected shall be applied for and towards the amending repairing paving cleansing and supporting such highways causeways streets pavements and bridges (*and for buying materials, making satisfaction for damages, erecting guide-posts and paying the surveyor's salary*), according to the direction and true intent and meaning of the said Act. *A. B.*
C. D.

No. XVI. Order of two Justices for [*widening*] or [*diverting and turning*] a Highway.

(When it is only to be widened, leave out the Words in Italic, and insert,) 'But 'may be conve- 'niently en- 'larged and 'widened, by 'adding there- 'to from,' 'or, widened 'and enlarged.'

Middlesex. WE, two of his Majesty's Justices of the Peace for the said county, acting within the (*hundred*, &c.) of within the said county, having upon view found that a certain part of the highway between and in the (*parish*, &c.) of in the said (*hundred*), for the length of yards, or thereabouts, and particularly described in the plan hereunto annexed, is for the greatest part thereof narrow, *and cannot be conveniently enlarged and made commodious for travellers, without diverting and turning the same; and having viewed a course proposed for the said new highway, through* the lands and grounds of and of the length of yards, or thereabouts, and of the breadth of feet, or thereabouts, particularly described in the plan hereunto annexed, which we think will be much more commodious to the publick; we do hereby order, that the said highway be *diverted and turned* through the lands aforesaid; and that the Surveyor of the Highways for the (*parish*, &c.) of where the said old highway lies, do forthwith proceed to treat and make agreement with the said and for the recompence to be made for the said ground, and for the making such ditches and fences as shall be necessary in such manner, with such approbation, and by pursuing such measures and directions in all respects, as are warranted and prescribed by the statute made in the thirteenth year of the reign of his Majesty King *George* the Third, "For the Amendment and Preservation of the Highways:" And in case such agreement shall be made as aforesaid, we do order an equal assessment, not exceeding the rate of six pence in the pound, to be made, levied, and collected upon all and every the occupiers of lands, tenements, woods, tithes, and hereditaments, in the said (*parish*, &c.) of and that the money arising thereupon be paid and applied in making such recompence and satisfaction, as aforesaid, pursuant to the directions of the said Act. *A. B.*
C. D.

No. XVII. Certificate from the said Justices to the Court of Quarter Sessions.

This is to be wrote upon the above Order when no Agreement can be made.

To the Justices of the Peace, at their General Quarter Sessions, to be held at in the said County, the Day of 17

WE the within named *A. B.* and *C. D.* do hereby certify to the said Court of Quarter Sessions, that we made and signed the within order, and that with our approbation and by our direction the said Sur-

veyor hath treated with the said and for the said lands required for the purposes aforesaid, but was not able to make any agreement for that purpose with them, or either of them; and that he tendered to the said the sum of and to the said the sum of as a recompence for the said ground, and for the making the said ditches and fences, which they and each of them refused to receive.

A. B.
C. D.

No. XVIII. Order for stopping up the old Highway, and selling the Land and Soil thereof.

WE whose names are subscribed, being the Justices of the Peace who have viewed the several Highways described in the plans hereunto annexed, and made an order for diverting the old highway; and being satisfied that the new highway therein described is properly made, and fit for the reception of travellers, do hereby order the said old highway, being of the length of yards, and of the breadth of feet, upon a medium, as appears by the said plan, to be stopped up, and the land and soil thereof to be sold by the said Surveyor to whose land adjoins thereto, if he shall be willing to purchase the same, for the full value thereof, if not, to some other person or persons for the full value thereof: (reserving nevertheless to a free passage for persons, horses, cattle, and carriages, through the land and soil of the said old highway to and from the (*land*, &c.) belonging to him, called according to his ancient usage thereof.)

If there are more Highways than one to be stopped up, there should be a separate order for each.

This to be inserted where necessary, and to be varied as the Circumstances of the Case may require.

No. XIX. Certificate to be wrote under the Order above-mentioned.

WE, the above-named Justices, do certify, That the old Highway herein-before mentioned and described, was sold by the said Surveyor to with our approbation, for the sum of which sum we do order the said to pay to the said surveyor, to be applied in purchasing the land, and making the said new highway; and if any surplus remains, we do order that the same shall be applied for the use of the highways within the said (*parish*, &c.) of

No. XX. Receipt for the Purchase-money to be indorsed upon, or wrote under, the Certificate above-mentioned.

RECEIVED the day of from the said the sum of being the full consideration-money for the purchase of the said old Highway herein-before described, pursuant to the said orders and certificate.

No. XXI. Order of two Justices for diverting and turning a (*publick Highway, Bridleway*, or *Footway as the Case shall be*) through the Lands of any Person who consents thereto.

Middlesex. WE, and Esquires, two of his Majesty's Justices of Peace for the said county, at a special sessions held at in the hundred of in the said county, on the day of one thousand seven hundred having, upon view, found, that a certain part of a (*highway*, &c.) within the (*parish*, &c.) of in the said hundred, lying between and for the length of yards or thereabouts, and particularly described in the plan hereunto annexed, may be diverted and turned so as to make the same nearer (*or more commodious*) to the Publick; and having viewed a course, proposed for the new highway, in lieu thereof, through the lands and grounds of of the length of yards, or thereabouts, and of the breadth of feet, or thereabout, particularly described in the plan hereunto annexed, and having received

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evidence of the consent of the said to the said new highway being made through his lands herein-before described, by writing under his hand and seal, we do hereby order that the said highway be diverted and turned through the lands aforesaid; and we do order an equal assessment, &c. *(in the same form as before mentioned.)*

No. XXII. Consent from the Owners of the Land through which a new Highway is proposed to be made.

I *A. B.* of in the county of being owner of the lands described in the plan hereunto annexed, through which part of a certain highway, lying between and is intended to be diverted and turned (in consideration of the sum of to be paid to me for the said land, and the soil thereof), *or*, (in consideration of said old Highway being sold, exchanged, and to be vested in me, and also the sum of to be paid to me, *(as the case may be)*, do hereby consent to the making and continuing such new highway through my said lands.

Given under my hand and seal, this day of 17

No. XXIII. Licence from Justices of Peace, at a Special Sessions, to get Materials for the Repair of the Highways in another Parish, besides that wherein such Materials are to be employed.

Middlesex. *At a Special Sessions, held at for the* (Hundred) *of in the said County, by Justices of the Peace for the said County, acting within the said* (Hundred), *on the Day of* 17

IT appearing to us, upon evidence this day received, that sufficient materials cannot conveniently be had within the waste lands common grounds, rivers, or brooks, nor in the inclosed lands or grounds lying within the *(parish,* &c.) of *A.* in the said *(hundred)*, for the repair of the highways within the said *(parish,* &c.) nor in the waste lands common grounds rivers or brooks within the *(parish,* &c.) of *B.* adjoining to the said *(parish,* &c.) of *A.* we do hereby give our licence to the surveyor for the said *(parish,* &c.) of *A.* to search for dig get and carry sand gravel chalk stone and other materials within the inclosed lands or grounds of *C. D.* within the said *(parish,* &c.) of *B.* to be employed in the repair of the highways within the said *(parish,* &c.) of *A.* it appearing from evidence laid before us that there are proper materials within the said lands for the purposes aforesaid lying convenient to the said highways; and that after such materials shall be so taken, there will be sufficient left for the use of the highways within the said *(parish)* of *B.* upon the said surveyors making satisfaction and recompence for the same in the manner directed by the Act passed in the thirteenth year of the reign of his Majesty King *George* the Third, "For the Amendment and Preservation of the Highways," subject to such restrictions as are therein contained.

Given under our hands and seals the day and year above written.

A. B.
C. D.

No. XXIV. Licence from a Justice of Peace, for a Surveyor to gather Stones upon inclosed Lands, for the Repair of the Highways.

Middlesex. *To the Surveyor of the Highways for the* (Parish) *of in the* (Hundred) *of in the said County.*

WHEREAS by an Act, passed in the thirteenth year of the reign of his Majesty King *George* the Third, "For the Amendment and Preservation of the Highways," the Surveyors are authorised to gather stones lying upon any lands or grounds within their liberty, for the use and benefit of the highways, but not without the consent of the occupiers of such lands, or a licence from a justice of peace for that purpose; And

whereas it appears to me, *E. F.* one of his Majesty's Justices of the Peace for the said county, and acting within the said (*hundred*, &c.) upon the oath of the said Surveyor, that he hath applied to *A. B.* of for his consent to gather stones from the lands called or known by the names of and in his occupation, within the said (*parish*, &c.) for the purposes aforesaid, and that the said stones are necessary for the repair of the said highways, and that the said *A. B.* hath refused to permit the same to be gathered; and the said *A. B.* having been duly summoned to appear before me, to shew cause why such permission should not be granted, and (*having appeared before me accordingly;*) or, (*having sent his steward or agent;*) or, (C. D. *on his behalf, to attend me on that occasion;*) or, (*but not having appeared;*) I have heard what has been alleged, and taken the said matter into consideration, and am of opinion that the said stones are necessary, and ought to be gathered and carried away for the purposes aforesaid; therefore I do hereby give my licence to the said Surveyor to take and carry away the same accordingly.

Given under my hand and seal, the day of 17

No. XXV. Notice to perform Statute-duty (to be given four Days before the Day on which the Duty is to be performed).

A. B. you are hereby required to send a team, with two able men, to within the (*parish*, &c.) of on the and days of next, at o'clock in the morning of each day, in order to perform such duty upon the highways within the said as shall be required by the Surveyor, pursuant to the direction of the Act, passed in the thirteenth year of the reign of his Majesty King *George* the Third, "For the Amendment and Preservation of the Highways." (*When personal labour is required*), you are hereby required, by yourself, or a sufficient labourer, to attend, &c.

Dated this day of 17

If he does not occupy Lands, &c. of the yearly Value of 30*l.* in such Parish, &c. he is only to send one Man.

If a Waggon or a Cart with Two Horses, or one Horse only, is required, let it be expressed.

No. XXVI. Notice for Compositions.

NOTICE is hereby given, That all persons who are inclined to compound for their statute duty within the (*parish*, &c.) of are hereby required to signify their intention to compound for the same to the Surveyor of the Highways for the said (*parish*, &c.) at the house of of on the day of this instant *November*, between the hours of and and they are hereby required, at the same time, or within the space of one month after, to pay their composition-money to the said Surveyor; and also, that all persons who are liable to pay money for the lands, tenements, woods, tithes, and hereditaments, which they occupy, or in lieu of their duty within the (*parish*, &c.) according to the Act made in the thirteenth year of his Majesty King *George* the Third, "For the Amendment and Preservation of the Highways," are required to pay the same to the said Surveyor, on the day, or within the time aforesaid.

Dated this day of *November*, 17

A. B. Surveyor.

No. XXVII. Order for Statute-duty to be performed in Kind.

Middlesex. *At a Special Sessions, held at in the* (Hundred) *of in the said County, the Day of* 17 *by Justices of the Peace for the said County, acting within the said* (Hundred.)

IT appearing to us, from the information which we have received, that there will be difficulty in procuring the necessary (*carriage*), or (*a sufficient number of labourers*) (*as the case shall be*) for the repair of the highways within the (*parish*, &c.) of within the said (*hundred*) with-

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out paying high and extravagant prices for the same, we do hereby order and direct (the team duty within the said (*parish*, &c.) except such teams where the owners thereof do not occupy lands, tenements, woods, tithes or hereditaments within the said (*parish*, &c.) of the annual value of thirty pounds), or (one half of the team duty, &c.) or the labourers liable to perform statute duty within the said (*parish*, &c) (as the case shall be) to perform statute duty in kind within the said (*parish*, &c.) according to the authority and directions of the Act, passed in the thirteenth year of the reign of his Majesty King *George* the Third, " For the Amendment and Preservation of the Highways."

No. XXVIII. Notice to the Surveyor, of the Times fixed by the Inhabitants for being excused from doing their Statute-duty.

To the Surveyor of the Highways for the (Parish, &c.) *of* *in the County of*

I *A. B.* (*Constable*) *Headborough*) *Tithingman*,) of the said (*parish*, &c.) do hereby give you notice, That the inhabitants of the said (*parish*, &c.) did, at a vestry or publick meeting, held on the day of one thousand seven hundred agree to take the benefit of the indulgence of three months, for not performing their statute duty, given by the legislature, in the Act passed in the thirteenth year of the reign of his Majesty King *George* the Third, " For the Amendment and Preservation of the Highways," at the times following, *videlicet*, That they shall not be called upon to perform such duty between the day of and the day of (which they consider as the seed month), nor between the day of and the day of (which they consider as the hay-harvest month), nor between the day of and the day of (which they consider as the corn harvest month. [*The like notice to be given to the Surveyor or Surveyors of the turnpike roads, where there are any such within the* (parish, &c.)]

No. XXIX. Order of the Justices at their Special Sessions, for the Repair of certain Highways which most want Repair.

Middlesex. *At a Special Sessions, held at in the* (Hundred) *of in the said County, the Day of* 17 *by Justices of the Peace for the said County acting within the said* (Hundred.)

To the Surveyors of the Highways for the (Parish, &c.) *of* *in the said* (Hundred).

IT appearing to us, That the Highway, lying between and within your liberty, is very founderous, and in bad repair, and being of great publick use, we do hereby order that you repair, or cause the same to be repaired, before the day of next.

Given under our hands and seals, this day of 17

No. XXX. A Precept for erecting Guide Posts, &c.

Middlesex. *At a Special Sessions, held at for the* (Hundred) *of in the said County, before Justices of the Peace for the said County, acting within the said* (Hundred) *on the Day of* 17

To the Surveyor of the (Parish) *of* *in the said* (Hundred).

YOU are hereby required forthwith to erect or cause to be erected in the most convenient place upon the Highway lying between and within your liberty, where the roads cross or branch out, a guide-post with proper inscriptions painted on both sides thereof in large

legible letters denoting the towns of and (*or other places as the justices shall think most proper.*)

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[*Where graduated Stones or Posts are necessary to prevent Accidents from deep Waters vary it as under:*] (In the most convenient place upon the highway at the approach or entrance on each side of the ford or water called at within your (*liberty*) graduated posts denoting the depth of water in the deepest part thereof through which such highway passes; and you are allowed to charge the reasonable expences of providing and erecting the same in your accounts.

A. B.
C. D.

No. XXXI. Notice for holding a Vestry, or other publick Meeting.

NOTICE is hereby given, That a vestry or publick meeting will be held at on the day of next at the hour of in the noon, in order to consult about the times when it will be most convenient for the inhabitants of this (*parish*, &c.) to be excused from being called forth to perform their statute-duty according to the indulgence given them by the Act passed in the thirteenth year of the reign of his Majesty King *George* the Third, "For the Amendment and Preservation of the Highways."

Dated the day of '17

A. B. (Constable) Headborough,) &c.

No. XXXII. Presentment by a Justice of Peace.

Middlesex. AT the General Quarter Sessions of the Peace of our Lord the King, held for the said county at in the said county on (*Tuesday*) the day of in the year of the reign of before Esquires and others their companions Justices of our said Lord the King assigned to keep the peace in the said county, and also to hear and determine divers felonies trespasses and other misdemeanors in the said county committed; *A. B.* Esquire, one of the Justices of our said Lord the King, assigned for the purposes aforesaid by virtue of an Act made in the thirteenth year of the reign of his Majesty King *George* the Third, "For the Amendment and Preservation of the Highways," (upon his own view), *or* (upon information upon oath to him given by *C. D.* surveyor of the highways for the (*parish*, &c.) of in the said county doth present that from the time whereof the memory of man is not to the contrary there was and yet is a certain common and ancient King's highway leading from the town of in the said (*county*, &c.) towards and unto within the same (*county*,) used for all the King's subjects, with their horses coaches carts and carriages to go return and pass at their will; and that a certain part of the same King's common highway, commonly called situate lying and being in the (*parish*, &c.) of in the same (*county*), containing in length yards, and in breadth feet, on the day of in the year of the reign of and continually afterwards until the present day, was and yet is very ruinous deep broken and in great decay for want of due reparation and amendment, so that the subjects of the King through the same way with their horses coaches carts and carriages could not during the time aforesaid, nor yet can go return or pass as they ought and were wont to do to the great damage and common nuisance of all the King's subjects through the same highway going returning or passing, and against the peace of our said Lord the King; and that the inhabitants of the (*parish*, &c.) of aforesaid in the (*county*) aforesaid, the said common highway (*so in decay*) ought to repair and amend when and so often as it shall be necessary.

This to be inserted where it is upon the Information of the Surveyor.

In testimony whereof, the said *A. B.* to these presents hath set his hand and seal this day of in the year aforesaid.

No. I.
13 Geo. III.
c. 78.

No. XXXIII. Summons for any Person or Persons to attend a Justice or Justices.

Middlesex. *To* A. B. *of*

WHEREAS complaint and information hath been made upon oath before me *C. D.* one of his Majesty's Justices of the Peace for the said *(county,* &c.) by *E. F.* of
That, &c. *(here state the nature and circumstances of the case as far as it shall be necessary to shew the offence and to bring it within the authority of the justice, and in doing that follow the words of the Act as near as may be,)* These are therefore to require you personally to appear before me (or the justices to be assembled at their special sessions to be holden,) at in the said *(county,* &c.) on the day of next, at the hour of in the noon, to answer to the said complaint and information made by the said *E. F.* who is likewise directed to be then and there present to make good the same: Herein fail not.

Given under my hand and seal, this day of 17

No. XXXIV. Information.

Middlesex. BE it Remembered, That on the day of 17 *A. B.* of in the said county informeth and maketh oath before me one of his Majesty's Justices of the Peace for the said county, that of in the said county *(here describe the offence, and if it is for default for performing the statute-duty state the duty required and the notice given for that purpose and the neglect according to the fact, and as near the words of the Act as may be)*, contrary to the statute made in the thirteenth year of the reign of his Majesty King *George* the Third, "For the Amendment and Preservation of the Highways," which hath imposed a forfeiture of for the said offence.

A. B.

Taken and sworn the day of before me }

No. XXXV. Form of Conviction.

Middlesex. BE it Remembered, That on the day of in the year of our Lord, 17 at in the county aforesaid, *A. B.* came before me *C. D.* Esquire, one of his Majesty's Justices of the Peace for the said county, and informed me that *E. F.* of on the day of now last past, at in the said county, did *(here set forth the fact in the manner described by the statute)*, whereupon the said *E. F.* after being duly summoned to answer the said charge appeared before me on the day of at in the said county, and having heard the charge contained in the said information, declared that he was not guilty of the said offence; but the same being fully proved upon the oath of *G. H.* a credible witness, it manifestly appears to me the said justice that he the said *E. F.* is guilty of the offence charged upon him in the said information: It is therefore considered and adjudged by me the said justice that the said *E. F.* be convicted, and I do hereby convict him of the offence aforesaid; and I do hereby declare and adjudge that he the said *E. F.* hath forfeited the sum of of lawful money of *Great Britain* for the offence aforesaid, to be distributed as the law directs, according to the form of the statute in that case made and provided.

Given, &c.

This to be inserted where the Party refuses to appear upon the Summons.

After the words, "being duly summoned to answer the said charge," *insert* (did not appear before me pursuant to the said summons); *or* (did neglect and refuse to make any defence against the said charge, but the same being fully proved, &c.) *as before.*

After the words, "contained in the said information," *insert* (acknowledged and voluntarily confessed the same to be true, and it manifestly appears to me the said justice, &c.) *as above.**

No. XXXVI. Warrant to distrain for the Forfeiture.

Middlesex. *To the* (Constable) Headborough) *or* Tithingman) *of*

WHEREAS *A. B.* of in the said county *(yeoman)* is this day convicted before me *C. D.* Esquire, one of his Majesty's Justices of the Peace in and for the said county, upon the oath of *G. H.* a credible witness, for the said *A. B.* hath [*here set forth the offence, describing it particularly in the words of the statute as near as may be*] contrary to the statute in that case made and provided, by reason whereof the said *A. B.* hath forfeited the sum of to be distributed as herein is mentioned, which he hath refused to pay: These are therefore in his Majesty's name to command you to levy the said sum of by distress of the goods and chattels of him the said *A. B.* and if within the space of four days next after such distress by you taken, the said sum together with the reasonable charges of taking and keeping the same shall not be paid, that then you do sell the said goods and chattels so by you distrained, and out of the money arising by such sale that you do pay one half of the said sum of to *E. F.* of who informed me of the said offence, and the other half of the said sum of to *J. K.* the surveyor of the highways for the *(parish) township)* or *place)* where the said offence *(neglect)* or *(default)* happened, to be employed towards the repair of the said highways, returning the overplus upon demand to him the said *A. B.* (the reasonable charges of taking keeping and selling the said distress being first deducted); and if sufficient distress cannot be found of the goods and chattels of the said *A. B.* whereon to levy the said sum of that then you certify the same to me together with this warrant.

Given under my hand and seal, the day 17

C. D.

* This is to be inserted when the Party accused confesses the Charge.

This is to be varied according to the Act, in each particular Case.

No. XXXVII. Return of the Constable to be made upon the Warrant of Distress when there are no Effects.

I *A. B.* Constable of the *(parish,* &c.) of in the *(county)* of do hereby certify and make oath, That by virtue of this warrant I have made diligent search for the goods of the within named and that I can find no sufficient goods whereon to levy the within sum of as witness my hand the day of 17

A. B.

Sworn before me the day and year, *&c.* *C. D.*

No. XXXVIII. Warrant of Distress for Non-payment of Money charged by an Assessment.

Middlesex. *To the* (Constable) Headborough) Tithingman) *of in the said* (County.)

WHEREAS by an assessment made upon the occupiers of lands, tenements, woods, tithes, and hereditaments, within the (*parish,* &c.) of in the said (*county*), for the purposes of, *&c.* [*as stated in the justice's order*], pursuant to an order of justices for that purpose, according to the directions of the Act, passed in the thirteenth year of the reign of his Majesty King *George* the Third, "For the Amendment and Preservation of the Highways," *A. B.* was charged the sum of as his share and proportion of the said assessment, in respect of the lands, tenements, woods, tithes, and hereditaments, which he occupied within the said (*parish,* &c.): And whereas it appears to me, upon the oath of that the said sum of hath been duly demanded from

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the said *A. B.* and that he hath refused to pay the same for the space of ten days after such demand made, These are therefore, in his Majesty's name, to command you to levy the said sum of by distress of the goods and chattels of the said *A. B.* and if the same shall not be paid within the space of four days next after such distress by you taken, together with the reasonable charges of taking and keeping the same, that you do then sell the said goods and chattels so by you distrained; and out of the money arising by such sale, that you do pay unto *C. D.* the surveyor of the highways for said (*parish*, &c.) of the said sum of to be employed for the purposes aforesaid; and that you do return the surplus thereof to the said *A. B.* (the reasonable charges of taking, keeping and selling the said distress being first deducted); and if sufficient distress cannot be found of the goods and chattels of the said *A. B.* whereon to levy the said sum of that then you certify the same to me, together with this warrant.

Given under my hand and seal, the day of 17

No. XXXIX. Commitment for Want of Distress.

Middlesex. *To the* (Constable) *of in the said County, and to the Keeper of the Common Gaol* (*or*, the House of Correction) *at in the said County.*

WHEREAS *A. B.* of in the said county (*yeoman*), was, on the day of convicted before me, *C. D.* Esquire, one of his Majesty's Justices of the Peace in and for the said county, upon the oath of *E. F.* a credible witness, for that he the said *A. B.* (*here set forth the offence*), contrary to the statute made in the thirteenth year of the reign of his Majesty King *George* the Third, "For the Amendment and Preservation of the Highways," by reason whereof the said *A. B.* hath forfeited the sum of And whereas, on the day of in the year aforesaid, I did issue my warrant to the (*constable*) of to levy the said sum of by distress and sale of the goods and chattels of him the said *A. B.* and to distribute the same according to the directions of the said statute: And whereas it duly appears to me, upon the oath of the said (*constable*), that the said (*constable*) hath used his best endeavours to levy the said sum on the goods and chattels of the said *A. B.* as aforesaid, but that no sufficient distress can be had whereon to levy the same, These are therefore to command you, the said (*constable*) of aforesaid, to apprehend the said *A. B.* and him safely to convey to the common gaol (or, *house of correction*), at in the said county, and there deliver him to the keeper thereof, together with this precept; and I do hereby also command you, the said keeper, to receive and keep in your custody the said *A. B.* for the space of three months, unless the said sum shall be sooner paid, pursuant to the said conviction and warrant; and for so doing this shall be your sufficient warrant.

Given under my hand and seal, the day of in the year of our Lord 17 *C. D.*

In the case of a commitment for the want of payment of money due by an assessment, it must be (to receive and keep in your custody, until he shall have paid the said sum of and the further sum of being the costs and charges occasioned by his neglect in paying the same.)

No. XL. Notice of Appeal to the Quarter Sessions.

A. B. take Notice, That I intend to appeal to the next General Quarter Sessions of the Peace to be holden for the (*county*, &c.) of against an order (*conviction or other proceeding as the case may be, particularly specifying the purport of such order, &c. and assigning the grievance and cause of complaint.*)

Dated the day of 17

C. D.

[No. II.] 13 George III. c. 84.—An Act to explain, amend, and reduce into one Act of Parliament, the general Laws now in being for regulating the Turnpike Roads in that Part of *Great Britain* called *England*; and for other Purposes.

No. II. 13 Geo. III. c. 84.

13 Geo. III. c. 84.

'WHEREAS the Laws for the general regulation of the Turnpike Roads within that part of *Great Britain* called *England*, are in 'some respects ineffectual and require amendment:' Wherefore, for remedy thereof, Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That it shall and may be lawful to and for all trustees appointed by any Act or Acts of Parliament for the repair of any turnpike road within that part of *Great Britain* called *England*, or any five or more of them, at some publick meeting if they shall think proper, at any or as many gate or gates bar or bars as they have erected or shall erect for the receiving of any toll or tolls, or upon any part of the road within their respective jurisdictions, and at such a distance from any turnpike-bar or toll-gate as they respectively shall think requisite and expedient, to order and cause to be built or erected a crane machine or engine proper for the weighing of carts waggons or carriages conveying of any goods or merchandise whatever; and by writing signed by them or any five or more of them to order all and every or any such carriage or carriages which shall pass loaded through any such gate or bar to be weighed together with the loading thereof; and for them or any five or more of them, or for any person or persons empowered by any five or more of them, to receive and take over and above the tolls already granted or hereafter to be granted the sum of twenty shillings for every hundred weight, one hundred and twelve pounds to the hundred, which every waggon or cart hereafter described together with the loading thereof shall weigh over and above the weights hereafter allowed to each of them respectively; (that is to say) To every waggon or four-wheeled carriage having the fellies or rollers of the wheels of the breadth of sixteen inches eight tons in summer and seven in winter; to every waggon or wain having the axletrees thereof of such different lengths that the distance from wheel to wheel of the nearer pair of the said wheels be not more than four feet two inches to be measured at the ground, and that the distance from wheel to wheel of the other pair thereof be such that the fore and hind wheels of such waggons and wains shall roll only one single surface or path of sixteen inches wide at the least on each side of the said waggons or wains, and having the fellies thereof of the breadth of nine inches from side to side at the bottom or sole thereof, six tons ten hundred in summer and six tons in winter; to every waggon or four-wheeled carriage having the sole or bottom of the fellies of the wheels of the breadth of nine inches six tons in summer and five tons ten hundred in winter; to every cart having the fellies of the same dimensions three tons in summer and two tons fifteen hundred in winter; to every waggon having the sole or bottom of the fellies of the wheels of the breadth of six inches four tons five hundred in summer and three tons fifteen hundred in winter; and to every such waggon so constructed as to roll and actually rolling a surface of eleven inches by the wheels thereof five tons ten hundred in summer and five tons in winter; to every cart having fellies of the wheels of the same dimensions two tons twelve hundred in summer and two tons seven hundred in winter; to every waggon having the sole or bottom of the fellies of the wheels of less breadth than six inches three tons ten hundred in summer and three tons in winter; and to every cart having the fellies of the wheels of the same dimensions one ton ten hundred in summer and one ton seven hundred in winter; and that for the several purposes aforesaid it shall be deemed summer from the first day of *May* to the thirty-first day of *October* both days inclusive, and winter from the first day of *November* to the thirtieth day of

By 21 Geo. 3. c. 20. *this Act is extended to* all *Road Acts made since, &c.*

Trustees, at a General Meeting, may order Weighing Engines.

Rep. by 14 Geo. 3. c. 82. *and additional Tolls granted.*

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April both days inclusive: Which said additional toll or duty hereby granted and made payable, shall and may be levied and recovered upon any person liable thereto in any of the cases aforesaid, or his or her goods or chattels, who shall after demand made thereof refuse or neglect to pay the same in such manner as any other toll or duty payable at the same turnpike-gate or bar is or shall be by law to be levied and recovered; and the money arising from such additional duty shall be applied to the repair of the turnpike road where the same shall be collected.

Duty of Toll-gate Keepers.

II. And be it further enacted, That the keeper of every such toll-gate or bar where any such weighing engine shall be erected or any other person appointed or to be appointed by the said trustees or any five or more of them to the care of such weighing engine, shall and is hereby required to weigh all such waggons and carts liable to be weighed by virtue of this Act, which shall pass loaded through such gates or bars respectively and which he shall have reason to believe carry greater weights than are allowed to pass without paying the said additional toll: and if any gate-keeper or person so appointed shall permit any such waggon or cart to pass through any such toll-gate with greater weights than are hereby allowed, without weighing the same and receiving such additional tolls as aforesaid, he shall for every such offence forfeit the sum of five pounds.

Forfeiture for every Offence is 5*l.*

Trustees, &c. may cause Carriages to be weighed.

III. 'And in order to detect the said collector or receiver in any fraudulent connivance or neglect of duty in the matters aforesaid,' Be it further enacted, That it shall and may be lawful for any trustee creditor clerk treasurer or surveyor of such turnpike road, if he shall suspect any such connivance or neglect as aforesaid, to cause any carriage liable to be weighed by virtue of this Act, which shall have passed through any toll-gate where such weighing engine shall be erected and shall not have passed above three hundred yards beyond such toll-gate to return to such weighing engine, and be there weighed with the loading which passed through such gate, in the presence of such trustee creditor clerk treasurer or surveyor, upon requiring the driver thereof to drive such carriage back to such weighing engine; and upon paying or tendering to him the sum of one shilling for so doing; which sum of one shilling shall be returned to the person paying the same, if upon weighing such carriage and loading the same shall be found above the weight hereby allowed.

Surveyors to make convenient Places for turning Carriages.

IV. 'And for the better enforcing the authority of this Act,' the surveyors shall and are hereby authorised and required to make convenient places for turning such carriages upon every such turnpike road where such weighing engine shall be erected within three hundred yards of such toll-gate on each side thereof, if the ground will admit of the same; and there shall be a list of the names of all the trustees and creditors and also of the clerk treasurer and surveyor of such turnpike road put up in the house or building where such weighing engine shall be placed, to be inspected by the owner or driver of every such carriage; and if the driver of any such carriage being so requested to return with his carriage to such weighing engine shall neglect or refuse so to do, he shall forfeit the sum of forty shillings; and it shall and may be lawful for any peace officer or other person or persons being then present, upon such neglect or refusal, to drive and take such carriage back to such weighing engine in order to be weighed as aforesaid.

Drivers refusing to turn, forfeit 40s.

V. 'And in order to compensate for the expences of erecting such weighing engine, and to prevent any prejudice to the creditors who have lent or shall lend their money upon the security of the tolls,' Be it further enacted, That all and every Act and Acts of Parliament made for repairing and amending turnpike roads, the trustees whereof shall within twelve calendar months after the commencement of this Act have caused to be erected and used thereupon such weighing engine pursuant to the direction and true intent and meaning of this Act, shall be continued and be in full force for five years, to be computed from the several ends and expirations of all and every such Act and Acts respectively and subject to all the tolls and duties penalties forfeitures remedies powers authori-

Former Acts further continued, if Engines erected in pursuance of this.

ties clauses rules directions payments and provisions respectively made and enacted by any of the said Act or Acts of Parliament, now or heretofore made for repairing and amending turnpike roads.

VI. Provided always and be it further enacted, That the regulations of weight herein-before mentioned shall not extend or be deemed or construed to extend to any waggons carts or other carriages employed only in husbandry or carrying only manure for land hay straw fodder or corn unthreshed; and that where lime or other manure is or shall by any particular turnpike Act be permitted to pass through any turnpike-gate toll-free or upon paying less toll than is required to be paid for other goods, it shall be liable to be weighed at all weighing engines upon such turnpike road, together with the carriages in which such lime or manure shall be conveyed, and shall pay such additional toll for overweight as herein-before directed.

Not to extend to Waggons, &c. in Husbandry.

VII. Provided also and be it further enacted, That it shall and may be lawful for the justices of the peace within the limits of every county riding division hundred or precinct at any general quarter sessions of the peace upon complaint made to them by any justice of the peace or by any two creditors or any two trustees of any turnpike road within the said limits of which they are creditors or trustees, that such turnpike road is much damaged by excessive weights being carried thereupon, and that no weighing engine hath been erected or ordered by the trustees of such turnpike road to be erected upon the same, to summon the clerk surveyor and treasurer of such turnpike road to appear before the said justices at their then next general quarter sessions of the peace, to shew cause why a weighing engine or engines should not be erected at or near such gate or gates upon such turnpike roads as shall be described in such summons; and if at such subsequent sessions the said clerk surveyor and treasurer or some or one of them shall not appear before the justices at such sessions, or appearing shall not shew sufficient cause to the said justices against the erecting of such weighing engine or engines, it shall and may be lawful for the said justices if they think fit at such quarter sessions to order one or more weighing engine or engines to be erected upon such turnpike road at such place or places as they shall think proper; a copy of which order shall be forthwith delivered to the clerk of such turnpike road; and the trustees thereof are hereby directed and required at their next meeting to be held after their clerk shall have been served with such copy of the order as aforesaid to contract or cause a contract to be made with some proper person or persons for the making and erecting such weighing engine or engines with all convenient speed; and the treasurer of such turnpike road is hereby authorised and required to pay the expences attending the making and erecting of such weighing engine or engines out of the money which shall then be or next come into his hands from the tolls arising upon such turnpike road.

Justices may order Weighing Engines to be erected.

VIII. Provided also and be it further enacted, That when two or more turnpike roads meet at or near the same place, it shall and may be lawful for the trustees of such turnpike roads respectively, at a meeting to be held for that purpose, to fix upon some convenient place to erect a weighing engine upon, which will accommodate all such turnpike roads; and by agreement amongst themselves at such meeting to proportion the expences which may attend the making erecting maintaining and keeping such weighing engine and likewise the money arising from forfeitures to be incurred for overweight at such weighing engine amongst all such turnpike roads in such manner as to them shall appear just and reasonable.

Where Roads meet, Trustees may erect one Weighing Engine.

IX. And be it enacted, That it shall not be lawful for the trustees of any turnpike road their lessee or lessees to make composition for tolls, for or in respect of any waggon wain cart or carriage or horses or beasts of draught drawing the same, unless such waggons wains carts and carriages have the fellies of the wheels thereof of the breadth or guage of six inches or more; any law to the contrary thereof notwithstanding.

Trustees not to make Composition unless Fellies of Wheels Six Inches broad.

X. And be it further enacted, That if any person or persons shall unload or cause to be unloaden any-goods wares or merchandises from

5*l.* Penalty on unloading Goods before, &c.

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any cart waggon or other carriage (except such carriages as are hereinbefore excepted) at or before the same shall come to any turnpike-gate or weighing engine, erected by virtue or in pursuance of this or any other Act made for the repair or preservation of any turnpike road; or shall load or lay upon such carriage (except as aforesaid) after the same shall have passed any such turnpike or weighing engine any goods wares or merchandises taken or unloaden from any horse cart or other carriages belonging to or hired or borrowed by the same waggoner or carrier, in order to avoid the payment of the said respective duties of twenty shillings *per* hundred; or if any person shall so unload in order to carry considerable quantities of goods through any turnpike gate in one and the same day and thereby pay less toll at such turnpike gate than would have been paid if such goods wares or merchandises had not been so unloaden; each and every person so offending in any of the cases aforesaid and being thereof lawfully convicted before one or more justice or justices of the peace for the limit where the offence shall be committed, upon the oath of one or more credible witness or witnesses, shall forfeit and pay the sum of five pounds; to be levied upon the goods and chattels of the owner of such cart waggon or other carriage; and each and every driver, not being the owner of such waggon or carriage so offending, and being thereof convicted as aforesaid, shall be committed to the house of correction for the space of one month.

Turning out of Road, to avoid being weighed, forfeit not exceeding 5*l.* nor less than 40*s.*

XI. And be it further enacted, That if the owner of any waggon cart or carriage or other person being the driver thereof, travelling on any turnpike road where any toll-gate or weighing engine is or shall be erected, shall drive or turn out of the same into any other road in order to avoid being weighed or to avoid the paying of toll, and shall afterwards proceed with such carriage into and on the same turnpike road, every such owner or other person convicted of such offence before one or more justice or justices of the peace for the limit where such offence shall be committed, upon the oath of one or more credible witness or witnesses, shall forfeit if he be the owner any sum not exceeding five pounds nor less than twenty shillings, and if he be the driver and not the owner any sum not exceeding fifty shillings nor less than ten shillings, upon conviction for every such offence.

Repealed by 14 Geo. 3. c. 14.

XII. And be it further enacted, That no carriage liable to be weighed by virtue of this Act shall pass along any turnpike road being above twenty miles from the cities of *London* and *Westminster* unless the same shall be made and constructed in such manner that no pair of such wheels shall be wider than four feet six inches from inside to inside, to be measured on the ground (except wheels having the soles of the fellies thereof the breadth of nine inches, which shall be so constructed as to roll a surface of sixteen inches; and that the wider pair of such wheels shall not be more than five feet eight inches from inside to inside, to be measured on the ground), and that the distance from the centre of the fore wheel to the centre of the hind wheel of any waggon or four-wheeled carriage, not being used for the carriage of timber only, be not above nine feet, to be measured from the centre of the axletrees at the ends thereof, on pain of the owner or owners of every such waggon wain or cart forfeiting the sum of five pounds for every such offence: and the surveyor or surveyors gatekeeper or gatekeepers of any turnpike road is and are hereby authorised and required at any turnpike or toll-gate or at any other place upon the turnpike road to measure every such waggon wain or cart; and if any master or driver of any waggon wain or cart shall hinder or refuse to permit such surveyor or surveyors gatekeeper or gatekeepers to measure such waggon wain or cart as aforesaid, he or she shall forfeit the sum of five pounds; and it shall not be lawful for any such waggon wain or cart not permitted to be measured as aforesaid to pass along any turnpike road.

No Nine-inch four-wheeled Waggon to be drawn with more than eight Horses, &c.

XIII. And be it further enacted, That no waggon wain or other four-wheeled carriage having the sole or bottom of the fellies of the wheels of the breadth or guage of nine inches shall pass or be drawn on any turn-

pike road with more than eight horses; nor any cart or other two-wheeled carriage having wheels of the breadth aforesaid shall pass or be drawn upon any turnpike road with more than five horses; and that the horses in such respective carriages shall draw in pairs (except an odd horse in any team, and except where the number of horses shall not exceed four); and also that no waggon wain or other four-wheeled carriage having the sole or bottom of the fellies of the wheels of the breadth of six inches shall pass or be drawn on any turnpike road with more than six horses; and that no cart or other two-wheeled carriage having wheels of the breadth last mentioned shall be drawn on any turnpike road with more than four horses; and also, that no waggon wain or other four-wheeled carriage having the fellies of the wheels of less breadth than six inches shall pass or be drawn on any turnpike road with more than four horses; and that no cart or other two-wheeled carriage having the fellies of the wheels of less breadth than six inches shall pass or be drawn on any turnpike road with more than three horses; and the owner of every such waggon wain cart or carriage shall forfeit the sum of five pounds; and the driver thereof not being the owner the sum of twenty shillings for every offence against the provisions aforesaid to any person or persons who shall sue for the same. (1.)

XIV. Provided always, That all carriages moving upon rollers of the breadth of sixteen inches on each side thereof with flat surfaces are hereby allowed to be drawn with any number of horses or other cattle.

Information within Three Days.

XV. Provided always and be it enacted, That no prosecution shall be commenced before a justice of peace by way of information for any forfeiture incurred by the owner or driver of any carriage having a greater number of horses therein than are allowed by this Act unless such information be laid within three days after the offence committed; and that no action shall be commenced for any such offence unless the same be commenced within one calendar month after the offence committed; and that neither such information or action shall be laid or commenced unless notice shall be given by the informer to the driver of every such carriage on the day upon which the offence shall be committed of an intention to complain of such offence; and if it shall appear to the justice before whom such complaint shall be made that the offender lives so remote as to make it inconvenient to summon him to appear before such justice, the justice may dismiss the complaint and leave the informer to his remedy by action at law.

Repealed by 14 Geo. 3. c. 82.

XVI. Provided always and be it enacted, That it shall and may be lawful for any waggon wain cart or carriage to be drawn with any number of horses upon any turnpike road where a weighing engine shall be erected, provided such carriage shall be weighed with such engine: and in order that the owner or driver of every such carriage may be furnished with proper evidence of the facts above mentioned, if any prosecution should be commenced against him or them for using a greater number of horses than are allowed by this Act, the person who shall have the care of such weighing engine shall and is hereby required on demand made by the driver of any such carriage to give to such driver a ticket certifying that such carriage was weighed and the weight thereof with the loading.

Penalty on taking off Horses, or altering the Distance of the Wheels.

XVII. And be it further enacted, That if any person or persons shall take off or cause to be taken off any horse or horses or other beast of draught from any waggon or other carriage, or shall alter or cause the distance of the wheels thereof to be altered at or before the same shall

(1.) This Section having given a Penalty, to be recovered by information before Justices of the Peace, or by Action, for using a greater number of Horses than is thereby allowed for the draught of waggons, &c. on the road; and the 19 Sect. having provided, that if it appear on oath to the satisfaction of any Justice of the Peace or Court of Justice that the carriage could not be drawn with the ordinary number of horses, by reason of deep snow or ice, then such Justice of Peace or Court may stop all proceedings before them respectively: Held, that such application for a stay of proceedings must be made to the Court above in which the action was brought, and that the defence is not available at Nisi Prius. Robinson *v.* Pocket, 11 E. R. 484.

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13 Geo. III. c. 84.

come to any of the said gates or turnpikes, with intent to avoid any toll forfeiture or penalty for drawing with a greater number of horses or beasts of draught, or in any other manner than hereby allowed, each and every person so offending and being convicted thereof before one or more justice or justices of the peace for the limit where the offence shall be committed upon the oath of one or more credible witness or witnesses shall forfeit and pay the sum of five pounds.

Trustees may low Waggons with Broad Wheels to be drawn up Hills with 10 Horses, &c.

XVIII. Provided always and be it enacted, That if it shall appear to the trustees of any turnpike road or any seven of them at any of their public meetings, by the oath of one or more witness or witnesses experienced in levelling, that any part of the rise of any hill upon such turnpike road shall be more than four inches in a yard; in such case it shall and may be lawful to and for the said trustees or any seven of them to allow such number of horses as they shall judge necessary, not exceeding ten for waggons with nine-inch wheels, nor six for carts with nine-inch wheels; and not exceeding seven for waggons with six inch wheels, nor five for carts with six-inch wheels; and not exceeding five for waggons with wheels of less breadth than six inches: and in case it shall appear to the said trustees in manner aforesaid that the whole rise of any hill taken together shall be more than four inches in a yard upon an average, it shall and may be lawful for the said trustees or any seven of them to allow such number of horses as they shall think fit to be used in such waggons and carts respectively, for the purpose only of drawing the same up such hill or hills as aforesaid, the length and extent of such hill or hills to be specified in such order of allowance, and the termination at each end thereof to be marked by a post or stone to be erected at such respective boundaries; and the said order of allowance shall be certified by the said trustees or their clerk to the next general quarter sessions of the peace of the limit within which such hill or hills shall respectively be situated: and if the facts upon which the same is founded shall at the said quarter sessions be proved upon the oath of one or more credible witness or witnesses to the satisfaction of the justices on the bench or the major part of them, the said order of allowance shall be confirmed and filed among the records of the sessions by the clerk of the peace, or otherwise shall be vacated and quashed: and from and after such confirmation and filing no person shall be liable to any penalty or forfeiture for using such number of horses as shall be so allowed in drawing any waggon or cart up such hill or hills respectively; and it shall and may be lawful for the said justices at any subsequent quarter sessions of the peace to reconsider the said order of allowance and to discharge the same if they think fit.

Exemption with respect to deep Snow or Ice.

XIX. Provided also and be it further enacted, That if it shall appear upon the oaths of credible witnesses to the satisfaction of any justice or justices of the peace, or of any court of justice authorised to enforce the execution of this act, that any waggon cart or carriage could not by reason of deep snow or ice be drawn with the respective weights and by the number of horses or beasts of draught hereby respectively allowed; then and in every such case it shall and may be lawful for such justice or justices of peace or court respectively and they are hereby respectively required to stop all proceedings before them respectively for the recovery of any penalty or forfeiture which may have been incurred by drawing with a greater number of horses or beasts of draught than are hereby allowed; any thing herein contained to the contrary notwithstanding.

Narrow-wheeled Waggons not to be drawn by Horses in Pairs.

XX. 'And whereas great damage is done to turnpike roads by waggons 'and other carriages with narrow wheels drawn by horses in pairs;' For remedy thereof, be it enacted, That it shall not be lawful for any waggon wain or cart having the sole or bottom of the fellies of the wheels thereof of less breadth or guage than nine inches to pass upon any turnpike road or through any turnpike gate or bar if the same shall be drawn by horses in pairs (other than and except such waggons wains or carts having the fellies of the wheels thereof of the breadth of six inches, as shall be authorised to be drawn in any other manner by order of the trustees of any turnpike road within their district, made at a publick

meeting, consisting of seven trustees or more: which order it shall and may be lawful for the said trustees to revoke at any subsequent meeting, and afterwards to make a new one if they shall think fit for the same purpose, and fixed in writing upon every toll-gate within such district, and except carriages drawn by two horses only).

Penalty on Drivers driving Carriages contrary.

XXI. And be it further enacted, That in case any person or persons shall upon any turnpike road drive or act as the driver or drivers of any waggon cart wain or carriage, not being marked according to the directions of this Act; or drawn by more than the number of horses or beasts of draught hereby respectively authorised; that then and in every such case it shall and may be lawful to and for any constable tythingman surveyor or any other person to apprehend and take or cause to be apprehended and taken such person or persons, so driving or acting as driver or drivers as aforesaid, before one or more justice or justices of the peace for the limit where the said offence shall be committed, and upon conviction thereof, either by the confession of the party or by the oath of one or more credible witness or witnesses before such justice or justices of the peace, every such person or persons so offending shall respectively forfeit and pay for every such offence a sum not exceeding five pounds nor less than ten shillings, at the discretion of the justice or justices before whom such offender shall be convicted.

Where extraordinary Tolls have been granted, Trustees may mitigate, &c.

XXII. 'And whereas in and by several Acts of Parliament made for 'amending and repairing particular turnpike roads several high and ex'traordinary tolls are granted and directed to be levied and paid for wag'gons carts and other carriages drawn by more than a certain number of 'horses or beasts of draught therein respectively mentioned, with an in'tent in effect to prohibit the passage of such carriages and thereby the 'better to preserve the said roads;' Now it is hereby further enacted, That it shall and may be lawful to and for the said trustees appointed or to be appointed in or by virtue of any Act of Parliament made for repairing and amending such particular roads as aforesaid, or any five or more of such trustees respectively within their respective districts, and they are hereby authorised and required at the first meeting after the commencement of this Act to mitigate lessen and reduce the said high and extraordinary tolls and duties for and in respect of such waggons or other wheeled carriages only having the wheels of the breadth or guage of six inches as aforesaid, in such manner as no greater toll or duty in respect to waggons be demanded or taken for the same than is provided and directed by the said Acts respectively to be paid and taken for waggons and other four-wheeled carriages drawn by four horses or beasts of draught; and that no greater toll or duty be demanded or taken for carts having the fellies of their wheels of the breadth or guage of six inches than is provided and directed by such Acts respectively to be taken for carts drawn by three horses; and the said trustees within their respective districts, or any five or more of them respectively, are hereby authorised and required to give directions in writing to the several collectors within such their respective districts, to take and receive such tolls and duties and no other; any law or statute to the contrary notwithstanding.

Narrow-wheeled Waggons, &c.

XXIII. And be it further enacted, That the trustees appointed by virtue or under the authority of any Act of Parliament made for repairing or amending turnpike roads, or such person or persons as are authorised by them, shall and may and are hereby required to demand and take for every waggon wain cart or carriage having the fellies of the wheels thereof of less breadth or guage than six inches from side to side at the least at the bottom or sole thereof, and for the horses or beasts of draught drawing the same, one half more than the tolls or duties which are or shall be payable for the same respectively; and for every waggon wain cart or carriage having the fellies of the wheels thereof of less breadth or guage than six inches from side to side at the least at the bottom or sole thereof, and for the horses or beasts of draught drawing the same, from and after the twenty-ninth day of *September* one thousand seven hundred and seventy six double the tolls or duties which are or shall be payable for the same respectively by any Act or Acts of Parliament made

Double Tolls. *Superseded for Two Years, by* 16 Geo. 3. c. 41.

No. II.
13 Geo. III. c. 84.

for amending or repairing turnpike roads before any such waggon wain cart or carriage respectively shall be permitted to pass through any turnpike-gate or gates bar or bars where tolls shall be payable by virtue of any such Acts.

No Exemption by former Acts to be claimed, unless where Carriages with Six-inch Fellies are used.

XXIV. 'And whereas there are in several Acts of Parliament for making amending and repairing turnpike roads exemptions allowed from 'payment of tolls in particular cases therein respectively mentioned, and 'liberties are allowed in particular cases to pay less tolls than are 'charged upon other waggons wains carts and carriages passing through 'turnpike gates or bars: And whereas it will tend to the advantage and 'preservation of turnpike roads to confine such exemptions liberties pri-'vileges and advantages to carriages with wheels of the breadth or 'guage of six inches or upwards;' Be it therefore enacted, That no person shall by virtue of the said Acts of Parliament have claim or take the benefit or advantage of any exemption from toll or part of tolls, or to pass less toll for or in respect of any waggon wain cart or other carriage or horse drawing the same and carrying any particular kind of goods than other carriages of the like nature carrying other goods ought to pay, unless such waggon wain cart or other carriages have the sole of the bottom of the fellies of the wheels thereof of the breadth or guage of six inches or upwards, (other than and except carts and carriages employed in carrying corn or grain in the straw hay straw fodder dung lime for the improvement of land or other manure, or any implements of husbandry only); but that the toll required by the said Acts respectively, together with the additional tolls hereby required to be taken for or in respect of every such waggon wain cart or other carriage having the sole or bottom of the fellies of the wheels thereof of less breadth or guage than six inches as aforesaid, and for and in respect of horses or beasts of draught drawing the same (except as before excepted) shall be paid in the same manner to all intents and purposes as if no exemption or less toll had been enacted or allowed by any of the said Acts respectively, and as fully as all other waggons wains carts and carriages and horses drawing the same ought respectively to pay, which are not intitled to any exemption from toll in the whole or part; or to pay a less toll than other waggons wains carts and carriages; any law or statute to the contrary notwithstanding.

Carts, &c. in Husbandry excepted.

Explained by 16 Geo. 3. c. 39.

XXV. Provided, That no person or persons be allowed to take the benefit of any such exemptions, or to have the privilege herein-before given of compounding in respect of any carriage having the fellies of the wheels thereof of the breadth or guage of six inches or upwards, unless the fellies and the tire upon such fellies shall lie flat.

Extended for five Years, by 14 Geo. 3. c. 8.

XXVI. Provided also, That all waggons carts or carriages moving upon rollers of the breadth of sixteen inches on each side thereof with flat surfaces shall be permitted to pass or be drawn upon any turnpike road toll-free for the term of one year, to be computed from *Michaelmas* one thousand seven hundred and seventy-three; and from and after the expiration of the said term all such waggons carts or carriages as aforesaid shall pass upon any turnpike road through any toll gate or bar upon paying only so much of the tolls and duties as shall not exceed one half of the full toll or duty payable by this or any turnpike Act for all waggons wains or carts having the fellies of the wheels of the breadth or guage of six inches from side to side, or for the horses or beasts of draught drawing the same and not rolling a surface of sixteen inches, on each side thereof; and that no more than half toll shall be paid in respect of waggons having the fellies of the wheels thereof of the breadth of nine inches and rolling a surface of sixteen inches on each side thereof, from and after the commencement of this Act; any thing herein contained to the contrary notwithstanding.

Carriages to which Act not to extend.

XXVII. Provided always, That nothing herein-before contained shall extend or be construed to extend to any chaise-marine coach landau berlin chariot chaise chair calash or hearse, or to the carriage of such ammunition or artillery as shall be for his Majesty's service, or to any cart or carriage drawn by one horse or two oxen and no more; or to any carriage having the sole or bottom of the fellies of the wheels thereof

of the breadth of nine inches, which shall be laden with one block of stone one piece of marble one cable rope one piece of metal or one piece of timber.

XXVIII Provided also, and be it enacted, That if any person or persons shall take the benefit of any exemptions under or by virtue of this or any other Act made for the repair of any turnpike road in any fraudulent or collusive manner whatsoever, such person or persons shall forfeit for every such offence a sum not exceeding five pounds nor less than forty shillings, at the discretion of the justice or justices before whom such offender shall be convicted.

Penalty on fraudulently taking Benefit of any Exemption.

XXIX. 'And whereas in and by several Acts of Parliament made and 'passed for amending and repairing particular turnpike roads there is no 'power or no effectual power given to the trustees to lessen the tolls, 'although such turnpike roads may be sufficiently or in a great degree 'amended and repaired; and all or the greatest part of the money bor- 'rowed upon the credit of any such Acts may have been paid and 'discharged:' Be it therefore further enacted, That it shall and may be lawful to and for the trustees appointed in and by virtue of any Act of Parliament now in force for repairing and amending such particular roads as aforesaid, or any seven or more of such trustees respectively, and they are hereby empowered in any of the cases aforesaid at a meeting to be held for that purpose, of which one calendar month's notice shall be given in writing to be affixed on all turnpike gates which shall be then erected upon such respective roads, and in some publick newspaper circulated in that part of the country, from time to time to lessen or reduce all or any of the tolls granted by any of the said respective Acts for and during such time as the said trustees or any seven or more of them shall think proper; and afterwards at any meeting to be held as aforesaid from time to time, if they shall see occasion, to advance all or any of the tolls so lessened to any sum or sums of money not exceeding the several rates granted by such Acts of Parliament respectively.

Trustees may reduce Tolls, and afterwards advance them.

XXX. Provided nevertheless, That where the whole money borrowed on the credit of the tolls granted by any such Act shall not have been paid and discharged, no such tolls shall be lessened or reduced without the consent of the person or persons entitled to five-sixths of the money remaining due upon such respective tolls.

XXXI. 'And whereas in and by the several Acts of Parliament made 'for repairing particular turnpike roads there are no powers given to the 'trustees to let or farm out the tolls arising upon such roads, and in 'many cases where the particular Acts have given such power they are 'not executed and enforced in the most beneficial manner for such 'roads;' For remedy whereof be it further enacted, That it shall and may be lawful for the trustees of any particular turnpike Act, or any seven or more of them, at a publick meeting to let to farm the tolls of the several gates erected upon their respective turnpike roads in the manner hereinafter mentioned, although no express power shall have been given by such turnpike Act for that purpose; and that whenever any tolls shall hereafter be let to farm by virtue of the powers given by this or any other Act or Acts of Parliament, the following directions shall be observed; (that is to say), The trustees shall cause notice to be given of the time and place for letting the same at least one month before the day to be appointed for that purpose, by fixing the same upon every toll-gate belonging to such turnpike road and also upon the market-cross of the market-town nearest to the place where the said tolls are to be let, and also in some publick newspaper circulated in that part of the country, and specifying in every such notice the sum which the said tolls produced in the preceding year clear of the salary for collecting the same in case any hired collector was appointed, and that they will let such tolls by auction to the best bidder on his producing sufficient sureties for payment of the money monthly or quarterly, as shall be required by the trustees; and that they will be put up at the sum which they were let for or produced in the preceding year clear of the salary of the collector; and to prevent fraud or any undue preference in the letting thereof the

Powers for Justices to farm out the Tolls, &c.

No. II.
13 Geo. III. c. 84.

trustees are hereby required to provide a glass with so much sand in it as will run from one end of it to the other in one minute; which glass at the time of letting the said tolls shall be set upon a table, and immediately after every bidding the glass shall be turned, and as soon as the sand is run out it shall be turned again, and so for three times, unless some other bidding intervenes: and if no other person shall bid until the sand shall have run through the glass for three times, the last bidder shall be the farmer or renter of the said tolls, and shall forthwith enter into a proper agreement for the taking thereof and paying the money at the times specified in such notice, or as shall be agreed upon between him and the trustees; and in case no bidder shall offer, the said trustees may appoint a collector of such tolls, or fix some future day for the letting thereof, as they shall judge most proper, upon giving such notice thereof as aforesaid, and shall and may in that case put them up at such sum as they shall think fit: and if the person or persons who shall be the farmer or renter of such tolls shall take a greater or less toll from any person or persons than what are authorised or directed by this or the particular turnpike Act, he or they shall for every such offence forfeit the sum of five pounds, and shall also forfeit the said contract for renting the tolls, if the said trustees shall think fit to vacate the same; and every other gate-keeper authorised to collect the tolls who shall take a greater or less toll than as aforesaid shall for every such offence forfeit the sum of forty shillings.

Statute-duty to be performed in Parish, &c. where it arises.

XXXII. And be it further enacted, That the surveyors of all turnpike roads shall cause the statute-duty required by the respective turnpike Acts and the compositions arising from the same to be performed laid out and expended upon the turnpike road lying within the parish township or place from which such duty shall be required and not elsewhere, and shall forfeit the sum of forty shillings for every misapplication thereof; and that where there are two or more turnpike roads under several Acts of Parliament within the same parish township or place, and the statute-duty directed by all such Acts to be taken or applied for the repair of such turnpike roads within such parish township or place shall exceed three days duty in the whole; then and in such case it shall and may be lawful for two or more justices of the peace of the limit where such turnpike roads shall be, and they are hereby required at some special sessions to adjust and proportion the statute-duty betwixt such turnpike roads and the other highways in such parish township or place in such manner as they shall think fit, having regard to the extent and condition of the said several roads and highways, and also to the tolls and revenues arising from such turnpike roads respectively, the said justices previously summoning the clerks and surveyors of such turnpike roads, and likewise the surveyors of the highways for such parish township or place, who are hereby respectively required to attend the justices upon such summons.

Justices may adjust Proportions.

Where Turnpike Roads are indicted, Court may proportion the Fine and Costs.

XXXIII. And be it further enacted, That when the inhabitants of any parish township or place shall be indicted or presented for not repairing any highway being turnpike road, and the court before whom such indictment or presentment shall be preferred (2.) shall impose a fine for the repair of such road, the same shall be proportioned together with the costs and charges attending the same between the inhabitants of such parish township or place and the trustees of such turnpike road in such manner as to the said court upon consideration of the circumstances of the case shall seem just; and it shall and may be lawful for such court to order the treasurer of such turnpike road to pay the sum so proportioned for such turnpike road out of the money then in his hands or next to be received by him, in case it shall appear to such court from the circumstances of such turnpike debts and revenues that the same may be paid without endangering the security of the creditors who have advanced

(2.) The Court of B. R. may apportion the Fine on an Indictment *preferred* at the Assizes, and removed by certiorari. R. *v.* Upper Pupworth, 2 E. 413.—The Trustees stating an insufficiency of Funds, time given to the Parish to inspect the Accounts, S. C.

their money upon the credit of the tolls to be raised thereupon; which order shall be binding upon such treasurer, and he is hereby authorised and required to obey the same.

XXXIV. Provided always, and be it further enacted, That no toll-gate shall hereafter be erected on the side of any turnpike road, unless the same be ordered by the trustees at a meeting of which twenty-one days' publick notice shall have been given in writing, affixed upon all the toll-gates erected on such roads and also in some publick newspaper circulated in that part of the country, specifying the place where such side-gate is proposed to be erected, and unless nine trustees at least (being a majority of those present) shall sign the said order at such meeting; and that no person shall be liable to pay toll at any toll-gate erected or to be erected across or on the side of any turnpike road, or be subject to any penalty for any carriage horse or beast which shall only cross such road and shall not pass above one hundred yards thereon, except over some bridge erected at a considerable expence by the trustees of such turnpike road; (3.) any thing in this or any other Act of Parliament contained to the contrary thereof in any wise notwithstanding.

Repealed by 14 Geo. 3. c. 57. as to Toll-gates authorised by Parliament.

XXXV. And be it further enacted, That if any person or persons shall agree to advance any sum or sums of money to be employed in the making or repairing any turnpike road or highway intended to be made turnpike, and shall subscribe his her or their name or names to any writing for that purpose, every such person shall be liable to pay every such sum or sums of money so subscribed according to the purport of such writing; and in default of payment thereof within twenty-one days after the same shall become payable according to the purport of such writing, and shall be demanded by the person to whom the same is made payable by such writing; or if no person be named therein for that purpose by the treasurer of such turnpike or intended turnpike road, it shall and may be lawful for every such treasurer or other person to sue for and recover the same in any of his Majesty's courts of record by action of debt or on the case bill suit or information, wherein no essoign protection or wager of law or more than one imparlance shall be allowed.

Payment of Money subscribed for making or repairing Turnpike Roads, how to be enforced.

XXXVI. And be it further enacted, That on every turnpike road where a sufficient quantity of stone gravel chalk or other materials cannot be provided and carried by the labourers and teams required to perform statute-duty upon the same, the surveyor with the approbation of the trustees of such road shall and is hereby required to contract for the getting and carrying thereof at some time and place to be fixed for that purpose, of which ten days' notice in writing shall be given by fixing the same on the door of the church or chapel of such parish township or place, or if there be no church or chapel, at the most publick place there, which notice shall specify the work to be done and the time and place for letting thereof: and if any surveyor shall have any part share or interest directly or indirectly in any such contract or in any other contract or bargain for work or materials to be made done or provided upon for or on account of any of the highways roads bridges or other works under his care or management; or shall upon his own account directly or indirectly let to hire any team or sell or dispose of any timber stone or other materials to be used or employed in making or repairing such roads bridges or other works as aforesaid, unless a licence in writing for the sale of any such materials, or for letting to hire any such team be first obtained from the said trustees; he shall forfeit for every such offence the sum of ten pounds, and be for ever after incapable of being employed as a surveyor under the authority of this or any other Act of Parliament.

Surveyor to get and carry away Materials by Contract, &c.

Surveyor to have no Share in the Contract, nor to sell Materials, or hire out any Team.

XXXVII. And be it further enacted, That if the surveyor or surveyors or other person or persons having the care of any turnpike road shall knowingly suffer to be or remain for the space of four days in any part within Ten Feet of the Centre of the Road, forfeits 40*s*.

If Surveyor suffers Earth, &c. to lie Four Days

(3) This exempts from Toll Carriages passing on a turnpike road for a less distance than 100 yards, whether they quit the road on the same side on which they entered it, or on the opposite side. Major *v.* Oxenham, 5 Taunt. 310.

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13 Geo. III. c. 84.

thereof, within ten feet on either side of the middle of such road, any post or posts heap or heaps of stones rubbish or earth set up or raised in or above the surface of the said road, by which the passage thereof shall or may be obstructed impeded confined or straitened (other than and except posts blocks stones or banks of earth fixed in the ground or raised for securing horse or foot roads or passages for water, and also direction posts and stones), such surveyor or other person shall forfeit the sum of forty shillings.

Persons making Incroachments forfeit 40*s*.

XXXVIII. 'And whereas inconveniences have arisen from making 'hedges or other fences and from ploughing or breaking up the soil of 'lands or grounds near the middle or centre of turnpike roads;' For remedy thereof, be it further enacted, That if any person shall incroach, by making or causing to be made any hedge ditch or other fence on any turnpike road within the distance of thirty feet from the middle or centre thereof; or shall plough harrow or break up the soil of any land or ground; or in ploughing or harrowing the adjacent lands shall turn his or their plough or harrow in or upon any land or ground within the distance of fifteen feet from the middle or centre of any turnpike road made or to be made; every person so offending shall forfeit for every such offence forty shillings to such person as shall make information of the same: and it shall be lawful for the trustees who have the care of any such road, or any five or more of them, to cause such hedge ditch or fence to be taken down or filled up at the expence of the person or persons to whom the same shall belong; and it shall or may be lawful for any one or more justice or justices of the peace of the limit where such offence shall be committed, upon proof thereof to him or them made upon oath, to levy as well the expences of taking down such hedges as aforesaid, as the several and respective penalties hereby imposed, by distress and sale of the offender's goods and chattels, rendering the overplus to the owner on demand.

Persons damaging Milestones, &c.,

XXXIX. 'And whereas in some places it hath been and may be found 'necessary, and the trustees of all turnpike roads are hereby authorised 'and required to secure or cause to be secured horse causeways and foot 'causeways to travel upon in public highways, by posts blocks or great 'stones fixed in the ground, or by banks of earth cast up, or otherwise 'from being broken up and spoiled with waggons wains carts or carriages; 'and forasmuch as several evil-disposed persons do or may wilfully or 'wantonly pull up cut down and remove or damage the said posts blocks 'and great stones so fixed or to be fixed as aforesaid, and drive carriages 'upon such banks and causeways or against the sides thereof, and also 'dig or cut down the said banks, which are the securities and defence of 'the said causeways, whereby the causeways or banks are often ruined 'and destroyed; and such evil-disposed persons do or may break damage 'or throw down the stones bricks or wood fixed upon the parapets or 'battlements of bridges, and do or may pull down destroy obliterate or 'deface any milestone or post, graduated or direction post or stone erected 'or to be erected upon any turnpike road;' For prevention thereof, be it enacted, That every person who shall be guilty of any such offence, shall upon complaint thereof made to any justice of the peace of the limit where the same shall be proved to be done by the oath of any one credible witness, or upon view of the justice himself, forfeit for every of the said offences any sum not exceeding five pounds nor less than ten shillings; and in default of payment thereof shall be committed to the house of correction of such limit, there to be whipped and kept to hard labour for any time not exceeding one calendar month nor less than seven days, at the discretion of such justice, unless the same be sooner paid.

forfeits not exceeding 5*l*. nor less than 10*s*.

Driver not attending his Carriage, or wilfully misbehaving,

XL. 'And whereas many bad accidents happen and great mischiefs are 'frequently done upon the streets and highways being turnpike roads, 'by the negligence or wilful misbehaviour of persons driving carriages 'thereon;' Be it therefore enacted, That if the driver of any cart car dray or waggon shall ride upon any such carriage in any street or highway, not having some other person on foot or on horseback to guide the same (such carriages as are conducted by some person holding the reins of the horse or horses drawing the same excepted); or if the driver of any

carriage whatsoever on any part of any street or highway shall by negligence or wilful misbehaviour cause any hurt or damage to any person or carriage passing or being upon such street or highway; or shall quit the highway and go on the other side the hedge or fence inclosing the same; or wilfully be at such distance from such carriage or in such a situation whilst it shall be passing upon such highway that he cannot have the direction and government of the horses or cattle drawing the same; or shall by negligence or wilful misbehaviour prevent hinder or interrupt the free passage of any other carriage or of his Majesty's subjects on the said highways; or if the driver of any empty or unloaded waggon cart or other carriage shall refuse or neglect to turn aside and make way for any coach chariot chaise loaded waggon cart or other loaded carriage; or if any person shall drive or act as the driver of any such coach post-chaise or other carriage let for hire, or waggon wain or cart not having the owner's name as hereby required painted thereon; or shall refuse to discover the true christian and surname of the owner of such respective carriage; every such driver so offending in any of the cases aforesaid, and being convicted of any such offence either by his own confession, the view of a justice of peace, or by the oath of one or more credible witness or witnesses before any justice of the peace of the limit where such offence shall be committed, shall for every such offence forfeit any sum not exceeding ten shillings, in case such driver shall not be the owner of such carriage; and in case the offender be the owner of such carriage then any sum not exceeding twenty shillings; and in either of the said cases shall, in default of payment, be committed to the house of correction for any time not exceeding one month, unless such forfeiture shall be sooner paid; and every such driver, offending in either of the said cases, shall and may by authority of this Act, with or without any warrant, be apprehended by any person or persons who shall see such offence committed, and shall be immediately conveyed or delivered to a constable or other peace officer, in order to be conveyed before some justice of the peace, to be dealt with according to law; and if any such driver in any of the cases aforesaid shall refuse to discover his name, it shall and may be lawful for the justice of the peace before whom he shall be taken, or to whom any such complaint shall be made, to commit him to the house of correction for any time not exceeding three months, or to proceed against him for the penalties aforesaid by a description of his person and the offence, and expressing in his proceedings that he refused to discover his name.

forfeits, if not the Owner of the Carriage, not exceeding 10*s*.

and if the Owner, not exceeding 20*s*.

May be apprehended without Warrant.

XLI. 'And for the better convenience of travellers where several highways meet,' Be it further enacted, That the trustees appointed to execute any Act of Parliament made for the repair of any turnpike road shall direct the surveyor of every such turnpike road where several highways meet, and there is no sufficient direction post or stone already fixed or erected, forthwith to erect or cause to be erected or fixed in the most convenient place where such ways meet, a stone or post with an inscription thereon in large letters, containing the name of and distance from the next market-town or towns or other considerable place or places to which the said highways respectively lead; and also at the several approaches or entrances to such parts of any highways as are subject to deep or dangerous floods graduated stones or posts denoting the depth of water in the deepest part of the same, and likewise such direction posts or stones as the said trustees shall judge to be necessary for the guiding of travellers in the best and safest tract through the said floods or waters; and also shall order the said surveyor to erect mile-stones or posts upon such turnpike road with proper inscriptions and figures thereon denoting the names and distances from the principal towns or places on each respective road, and from time to time to repair such stones and posts and keep and continue legible the inscriptions thereon respectively; and the said surveyor shall be re-imbursed the expences of providing erecting repairing and continuing the same respectively out of the tolls and duties granted by such Acts respectively; and

Trustees to order Direction Posts or Stones to be put up, &c.

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13 Geo. III. c. 84.

in case any surveyor shall by the space of three months after such direction to him or them given neglect or refuse to cause any such stone or post to be fixed or repaired as aforesaid, every such offender shall forfeit the sum of twenty shillings.

Malicious destroying Turnpike-gates, &c.

XLII. 'And to prevent the malicious destroying of any turnpike-gate 'or house, which hath been or shall hereafter be erected,' Be it further enacted, That if any person or persons whatsoever shall either by day or night wilfully or maliciously pull down pluck up or throw down level or otherwise destroy any turnpike gate or turnpike gates, or any post or posts rail or rails wall or walls, or any chain bar or other fence or fences belonging to any turnpike gate or any other chain bar or fence of any kind whatsoever set up or erected or hereafter to be set up or erected, to prevent passengers from passing by without paying any toll laid or directed to be paid by any Act or Acts of Parliament made for that purpose; or any house or houses erected or to be erected for the use of any such turnpike gate or turnpike gates; or any crane machine or engine made or erected or to be made or erected on any turnpike road by authority of Parliament for weighing waggons carts or carriages; or shall forcibly rescue any person or persons being lawfully in custody of any officer or other person for any of the offences before mentioned; that then and in any of the said cases every person so offending being thereof lawfully convicted shall be adjudged guilty of felony, and shall be transported to one of his Majesty's plantations abroad for seven years, or shall be committed to prison for any time not exceeding three years, at the discretion of the judge or court before whom such offender shall be tried; and any indictment for such offences shall and may be inquired of examined tried and determined in any adjacent county within that part of *Great Britain* called *England* in such manner and form as if the facts had been therein committed.

Felony.

Hundred shall make Satisfaction for Damages done, unless.

XLIII. And be it further enacted, That the inhabitants of every hundred within that part of *Great Britain* called *England* within which such offence or offences shall be committed, by pulling down or destroying any such turnpike gate or gates or any such post or posts rail or rails wall or walls belonging to any turnpike gate or gates, or any such chain bar or fence, or any house or houses set up or erected or to be set up or erected for the use or service of collecting the tolls, or any crane machine or engine made or erected on any turnpike road by authority of Parliament for weighing waggons carts or carriages at any place appointed by the respective trustees, or any five or more of them acting under any Act or Acts of Parliament for amending any turnpike road, shall make full satisfaction for the damages that shall be thereby suffered; and that the said damages shall and may be recovered by action of debt bill plaint or information in any of his Majesty's courts of record, by and in the name of the clerk of the peace of the county for the time being wherein such offence or offences shall be committed, without naming the christian or surname of the clerk of the peace; and such action shall not be abated or discontinued by the death or removal of any such clerk, but may be sued and prosecuted by his successors; and the said damages so to be recovered shall be to the only use and behoof of the trustees of such turnpike road where the offence shall have been committed, to be by them applied and disposed of to the several uses and purposes, and in such manner as the several tolls rates and duties by virtue of such Act or Acts of Parliament shall be applied and disposed of; and all and every the inhabitants of such hundred shall be rateably and proportionably taxed for and toward an equal contribution for the relief of such inhabitant or inhabitants against whom execution for such damages shall be had and levied, which tax shall be levied and raised by such means and in such manner and form as is prescribed and mentioned for the levying and raising the damages recovered against inhabitants of hundreds in case of robberies by any Act or Acts of Parliament: Provided, that upon conviction of any such offender within twelve months after the offence committed, any hundred or the inhabitants thereof liable to

make and having made such satisfaction shall be repaid the sums they have so paid out of the tolls of the turnpike where such offence was committed.

XLIV. 'And whereas great mischiefs have arisen from mean persons 'acting as trustees in the execution of such Acts of Parliament made 'for repairing public roads in that part of *Great Britain* called *England*, 'as do not direct and require that the trustees thereby appointed shall 'be qualified to act as such by the possession of real or personal estates 'to a certain value;' Be it therefore enacted, That no person shall be qualified or capable of acting as a trustee in the execution of any such Act as aforesaid, unless he shall be in his own right or in the right of his wife in the actual possession or receipt of the rents and profits of lands tenements or hereditaments of the clear yearly value of forty pounds; or possessed of or entitled to a personal estate to the value of eight hundred pounds; or shall be heir-apparent of a person possessed of an estate in land of the clear yearly value of eighty pounds; and unless he hath taken, or shall (not being such heir-apparent as aforesaid) before he acts as such trustee, take and subscribe the oath following before any two or more of the trustees appointed or to be appointed by or in pursuance of such Act, who are hereby authorised and empowered to administer the same in the words, or to the effect following; that is to say,

Qualification of Trustees, where the particular Act has not fixed it.

I A. B. *do swear, That I truly and* bona fide *am in my own right or in the right of my wife in the actual possession and enjoyment or receipt of the rents and profits of lands, tenements or hereditaments of the clear yearly value of forty pounds*; or, *possessed of or entitled to a personal estate to the value of eight hundred pounds* (as the case may be).

So help me God.

Oath of Trustees.

And if any person shall presume to act contrary to the true intent and meaning hereof every such person shall for every such offence forfeit and pay the sum of fifty pounds to any person who shall sue for the same; to be recovered in any of his Majesty's courts of record by action of debt or on the case, or by bill suit or information, wherein no essoign protection or wager of law or more than one imparlance shall be allowed; and such person so sued or prosecuted shall prove that he is qualified as above or otherwise shall pay the said sum of fifty pounds, without any other proof or evidence on the part of the plaintiff or prosecutor than that such person hath acted as a trustee in the execution of any such Act.

Trustees acting without taking the Oath forfeit 50*l.*

XLV. And be it further enacted, That all clerks treasurers surveyors and other officers appointed or to be appointed by any Act or Acts made for the repair of any turnpike roads and their respective executors or administrators shall within ten days after notice in writing to them respectively given by the trustees of such roads, or any five or more of them at a meeting held pursuant to such Act, produce and deliver up to such trustees all books accounts papers or writings whatsoever relative to the execution of such respective offices which shall be in their custody or power; and every such officer or person as aforesaid neglecting or refusing to produce and deliver up such books accounts papers or writings after such notice as aforesaid, shall for every such neglect or refusal respectively forfeit the sum of twenty pounds.

Clerks, &c. to deliver up Accounts when required, &c.

XLVI. And it is hereby further enacted, That no person or persons who shall keep any victualling-house ale-house or other house of publick entertainment, or who shall sell any wine cyder beer ale spirituous or other strong liquors by retail, shall be capable of acting as a trustee, or of taking holding or enjoying any place or places of trust or profit under the trustees of any Act of Parliament made or to be made for erecting turnpikes respectively, or of collecting the tolls thereby granted and made payable during such time as he shall keep such victualling-house ale-house or other house of publick entertainment, or shall sell any wine beer cyder ale spirituous or other strong liquors by retail; but no such person shall be precluded from farming such tolls, provided he employs a person to collect them who shall not be under any such incapacity.

No Person keeping a Publick House shall be a Trustee, or hold a Place of Profit;

but may farm Tolls.

XLVII. 'And whereas the trustees of several turnpike roads are not

Trustees may direct Prosecu-

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'sufficiently empowered to punish nuisances in the several roads under 'their care;' Be it therefore further enacted, That the said trustees of the several roads respectively or any five or more of them at a publick meeting may and they are hereby empowered if they think fit to direct prosecutions by indictment against the offender or offenders for any nuisance done committed or continued in or upon any of the turnpike roads under their care respectively, at the expence of the revenues belonging to such turnpike roads, to be allowed by such trustees or any five or more of them at some subsequent meeting: Provided, That nothing in this Act shall be construed to empower the trustees to prosecute or cause to be prosecuted any person for any such offence, unless upon the confession of the offender, or that one or more witness or witnesses can be had and produced to prove the commission of such offence.

Informations for Penalties, in order to favour the Offender, deemed fraudulent and void.

XLVIII. 'And whereas fraudulent contrivances may be practised 'by offenders their friends and others to evade the just recovery of 'forfeitures and penalties inflicted by laws relating to turnpike roads, by 'setting up colourable prosecutions with intent to favour offenders 'against the said laws and to discourage just and real prosecutions:' For remedy thereof be it enacted, That it shall and may be lawful for all and every justice and justices of the peace before whom there shall be any information or proceeding for any penalty or forfeiture inflicted by this or any Act or Acts of Parliament made for repairing and amending turnpike roads, and they are hereby required, where any information or conviction shall be set up or insisted upon by way of defence, or to defeat any information or proceeding or any forfeiture or penalty inflicted as aforesaid, to examine into the real merits of such information proceeding or conviction; and if thereupon it shall appear that the same was not done made or prosecuted effectually to recover and apply the penalty or forfeiture for the true and real ends and purposes for which such penalties or forfeitures were enacted, but to favour the offender, such information or conviction shall be deemed to be fraudulent and null and void to all intents and purposes whatsoever; and every such justice or justices of the peace shall proceed to determine and convict, as if no information or conviction had been made prosecuted or obtained.

If sufficient Number of Trustees do not appear, the Clerk may fix the Day and give Notice.

XLIX. And be it further enacted, That where a sufficient number of the trustees appointed by any Act or Acts of Parliament made for amending or repairing any particular turnpike roads shall not meet on the day appointed by any such Act or Acts respectively for their first meeting, or shall not meet on the day appointed by adjournment for their meeting, or for want of a proper adjournment, by which means or by some or one of them the intent of the said Act or Acts may be frustrated; in all or either of the said cases, it shall be lawful for so many of the said trustees as shall meet or the major part of them, or in case no such trustee shall be present for their clerk or clerks to cause notice in writing to be affixed on all turnpike-gates which shall be then erected on the said respective roads, or if no turnpike-gate shall be then erected to cause the like notice to be affixed in the most conspicuous place in one of the principal towns or places nearest to which the roads directed to be repaired do lie, and also in some publick newspaper circulated in that country at least ten days before the intended meeting, appointing such trustees to meet at such place where the preceding meeting was appointed to have been held; or at the place directed for the first meeting of such trustees, if no such preceding meeting shall have been held; and the said trustees when met in pursuance of such notice shall and may and they are hereby required to proceed and carry such Act or Acts into execution in the same and as ample and full a manner to all intents and purposes as they might or could have done if no such neglect had happened.

No Meeting to be adjourned for more than Three Months, &c.

L. Provided nevertheless and be it further enacted, That no meeting of such trustees shall at any time be adjourned for any longer time than three calendar months from the day on which such adjournment shall be made; and that no business shall be done or proceeded upon by the trustees at any meeting to be held under this or any other Act or Acts of Parliament made for repairing any turnpike roads before the hour of

ten in the forenoon; and that no adjournment shall be made to any hour later than two in the afternoon of the day on which such meeting shall be appointed to be held; and that every act agreed upon at any meeting shall be signed at the said meeting by a competent number of trustees, or otherwise every such meeting adjournment and act respectively shall be void and of none effect.

If Trustees cause Gates to be erected contrary, &c., Justices may order them to be removed.

LI. And be it enacted, That if the trustees appointed or to be appointed to put any Act of Parliament made for the repair of any turnpike road into execution shall abuse or exceed their power by erecting or causing to be erected or continuing or causing to be continued any gate or gates turnpike or turnpikes where they have not any power by virtue of any Act of Parliament to erect such gate or gates turnpike or turnpikes, it shall and may be lawful to and for the justices of the peace of the limit where any such gate or gates turnpike or turnpikes is or shall be erected or continued, in their general quarter sessions assembled, upon complaint of such abuse or excess of power in such trustees, in a summary way to hear and determine the same, and thereupon to order the sheriff of the county, who is hereby authorised and required to execute such order, to remove any such gate or gates turnpike or turnpikes.

Mortgages in Possession of the Tolls to account upon Oath.

LII. And be it enacted, That all and every mortgagee and mortgagees that hath or have taken or been in possession or shall hereafter take or be in possession of any toll-gate or bar set up or erected on any turnpike road, or of any lands or tenements the rents and profits whereof are appropriated to the repairs of any part of any turnpike road, shall within fourteen days after he she or they shall have received notice in writing from the trustees of such turnpike roads or any five of them, render upon oath, to be administered and taken by and before one justice of the peace or any one trustee of such turnpike road, an exact account in writing to such trustees or to any person appointed by them or any five of them to be named in such notice, of all monies received by such mortgagee or mortgagees or by any other person or persons for his her or their use and benefit or by his her or their authority at such toll-gate or bar or otherwise, and of what he she or they have expended in keeping or repairing the same: and in case he she or they shall neglect to render such account when required in the manner herein directed, he she or they shall severally forfeit and pay to the said trustees for every refusal neglect or omission to render such account the sum of ten pounds; to be recovered by the said trustees or any five or more of them or by the treasurer or clerk to the said trustees in a summary manner before one justice of the peace, which when recovered shall be applied to the use of the respective road or roads whereon such toll-gate or bar shall be placed.

If Mortgagee keeps Possession after he has received the Money due, he shall forfeit Double the Sum and Treble Costs.

LIII. And be it further enacted, That if any such mortgagee or mortgagees shall keep possession of any toll-gate or bar by him her or themselves or by any other person or persons on his her or their behalf, and receive the tolls or duties thereat or of any such rents or profits as aforesaid after such mortgagee or mortgagees shall have received the full sum or sums of money due on their respective mortgage or mortgages and the interest thereof with costs, such mortgagee or mortgagees shall forfeit and pay as a penalty to the said trustees double the sum or sums of money he she or they shall have received over and above the sum or sums of money due as aforesaid, with treble costs of suit; to be recovered by the said trustees or by the treasurer or clerk to such trustees by action of debt bill plaint or information in any of his Majesty's courts of record; which when recovered shall be applied to the use of the respective road or roads on which such toll-gate or bar shall be placed or such rents appropriated.

On Death of Gate-keeper, Trustees may nominate another till next Meeting.

LIV. Provided always and be it further enacted, That it shall and may be lawful for any two or more trustees of any turnpike road, upon the death of any toll-gatherer or gate-keeper appointed or to be appointed to collect the tolls upon such turnpike road, to nominate and appoint some other fit person in his place until the next meeting of the trustees of such road, which person so to be nominated and appointed shall

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have the like power and authority and be accountable in the same manner in all respects as the person so dying had or would have been if living and that if any toll-gatherer or gate-keeper, who shall be discharged from his office by the trustees authorised for that purpose, shall refuse to deliver up the possession of the house buildings and appurtenances which he enjoyed in right of his appointment to that office within two days after notice of his discharge shall be given to him or left at his house, or if the wife or family of any such toll-gatherer or gate-keeper, who shall die as aforesaid, shall refuse to deliver up the possession of such house buildings and appurtenances within four days after such new appointment shall be made as aforesaid; then and in either of the said cases it shall and may be lawful for any justice of the peace for the limit where such turnpike-house shall be, by warrant under his hand and seal to order the constable or other peace officer, with such assistance as shall be necessary, to enter such house and premises in the day time and to remove the persons who shall be found therein together with their goods out of such house, and to put the new appointed officer into the possession thereof

If Gate-keeper refuses to deliver Possession of the House, &c. Justices may order, &c.

Gate-keepers and Surveyors to account upon Oath.

LV. And be it further enacted, That the gate-keeper or toll-gatherer of every such toll-gate or bar and every surveyor of any turnpike road shall when required by notice in writing from the said trustees or any five or more of them render upon oath, to be administered by and taken before any one justice of the peace or trustee of such turnpike road, a true and exact account in writing to the said trustees or to any person to be named in such notice appointed by them or any five or more of them, of all monies received by him her or them at such toll gate or bar or otherwise on account of such turnpike road not before accounted for, under the penalty of five pounds for every such offence or neglect, to be recovered in a summary manner before any one justice of the peace, and applied to the use of the respective road on which such toll-gate shall be placed

No Gate-keeper to be removed as a Pauper, unless actually chargeable, &c.,

nor shall gain a Settlement by renting the Tolls, nor be assessed.

LVI. And be it further enacted, That no gate-keeper of any turnpike road, or person renting the tolls thereof and residing in any toll-house belonging to the said trust, shall be removeable from such toll-house by the order of any justices of the peace in pursuance of any laws now in being for the relief or regulation of the poor, unless he shall become actually chargeable to the parish or place in which such toll-house is situate; and that no such gate-keeper or person renting such tolls and residing in such toll-house as aforesaid shall thereby gain a settlement in any parish or place whatsoever; and that no tolls to be taken at any gate erected or to be erected by the trustees of any turnpike road, nor any toll-house erected or to be erected for the purpose of collecting the same, nor any person in respect of such tolls or toll-house shall be rated or assessed towards the payment of any poor's rate or any other publick or parochial levy whatsoever. (4)

Gate-keepers permitting otherwise than allowed by the Act, and not prosecuting, forfeit 40*s*.

LVII. And be it further enacted, That if any toll-gatherer or gate-keeper shall permit or suffer any waggon wain cart or other carriage to be drawn or pass upon any turnpike road within the view or with the knowledge of such gate-keeper or toll-gatherer, or to pass through any toll-gate or bar with any greater number of horses or beasts of draught or with any carriage constructed or drawn in any other manner than is before directed, or without such names and descriptions painted thereon as are hereby directed, and shall not within the space of one week proceed for the recovery of the forfeiture or penalty hereby inflicted for every such offence in the manner directed or authorised by this Act, he shall forfeit and pay for every such neglect the sum of forty shillings.

Justices at Special Sessions may transfer

LVIII. 'And whereas there are or may be turnpike roads in such a 'state and condition with regard to their repairs and the revenues arising 'upon them that the statute-duty required to be performed upon the 'same or some part thereof may be dispensed with, and employed more

(4.) This does not extend to the tolls of a Bridge, which Bridge does not appear to be part of the Turnpike Road. Rex v. Bubwith (Inhab.), 1 M. & S. 514.

'conveniently for the benefit of the other publick highways within the 'parish township or place in which such turnpike road lies;' Be it therefore enacted, That it shall and may be lawful for the justices of the peace at any special sessions, upon application to them made by the surveyor of any parish township or place in the situation herein-before described, to summon the clerk and surveyor of such turnpike road to appear before them at some other special sessions and then and there to produce before them a state of the revenues and debts belonging to such turnpike road, and for such justices then and there to inquire into the state and condition of the repairs thereof and also of such other highways; and if it shall appear to them upon full and clear evidence that the whole or any part of such statute-duty may be conveniently dispensed with from such turnpike road, without endangering the securities for the money advanced upon the credit of the tolls thereof, and that such statute duty is wanted for the repairs of the other highways within such parish township or place; then and in that case it shall and may be lawful for the said justices to order the whole or part of such statute-duty to be performed upon the highways not being turnpike within such parish township or place under the direction of the surveyor thereof, during such time as to them shall seem just and reasonable, and the same shall be performed accordingly; any thing in this or any other Act of Parliament contained to the contrary thereof in any wise notwithstanding.

Part of the Statute-duty, &c.

LIX. Provided always and be it further enacted, That it shall and may be lawful for the justices of the peace within the principality of *Wales*, at their respective general quarter sessions of the peace to be held in the week after *Michaelmas*, to license an increase of the number of horses to be employed in drawing carriages on any turnpike road within their respective jurisdictions over and above the number herein-before limited, if upon inquiry into the state and condition of such roads they shall find any additional number of horses necessary, and from time to time at any *Michaelmas* quarter sessions to revoke alter or vary the same as they shall think fit; and that neither the owner or driver of the horses so licensed shall incur any forfeiture for using such increased number of horses.

Justices in Wales may allow additional Number of Horses.

LX. And be it further enacted, That no toll shall be collected or received at any toll-gate for or in respect of carriages solely employed in carrying materials for the repair of any turnpike road or publick highway or for going to such employment or returning after having been so employed. (5.)

No Toll for Carriages carrying Materials for Roads.

LXI. 'And whereas it has been found by experience that small 'stones being permitted to lie upon the land are a benefit thereto,' Be it therefore enacted, That no surveyor shall gather or cause to be gathered any stones for the use of the highways upon or from the common fields or inclosed lands or grounds of any person or persons whomsoever without the consent of the occupier of such lands or grounds or a licence from a justice of peace of the limit, where such lands or grounds lie for that purpose, after having summoned such occupier to come before him and heard his reasons if he shall appear and give any for refusing his consent; any thing contained in this Act or in any Act of Parliament for making and repairing turnpike roads to the contrary thereof in any wise notwithstanding.

No Surveyor to gather Stones without Consent, or Licence.

LXII. 'And whereas many persons are liable by tenure inclosure 'or otherwise to the repair of certain highways which having become 'turnpike roads are more used and occasion an increase of the expence 'in repairing and maintaining thereof, which ought in some degree to 'be laid upon such turnpike road:' For remedy whereof be it further enacted, That it shall and may be lawful for the trustees of such turnpike road to agree with the person or persons liable to repair such highway for the repair thereof in such manner as they shall think fit, and to contribute so much to the repair thereof out of the tolls arising upon such turn-

Power for Trustees to agree with Persons liable to repair, &c.

(5.) A Bridge is not a Highway within the meaning of this Section, and therefore Toll is payable for a Carriage employed for carrying Materials for the repair of a Bridge along a Turnpike Road. Osmond *v.* Widdicombe, 2 B. & A. 49.

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pike road or out of the statute-duty belonging to the same as they shall think just and reasonable.

Persons liable to repair old Highways turned or stopped up, shall be liable to repair a part of the new Highway, &c. See *Cowp.* 650.

LXIII. 'And whereas parts of highways or turnpike roads have been 'or may be diverted and turned by legal authority to make the same 'nearer or more commodious to the publick; and doubts have arisen 'and may arise whether the inhabitants of any parish township or place 'or any particular person or persons liable to repair the old highway or 'road so deviated from by statute-duty tenure or otherwise ought to re-'pair or contribute to the repair of the whole or some and what part or 'proportion of such new highway or road:' For obviating which doubts and preventing disputes about the same, Be it enacted, That the inhabitants of every such parish township or place and person or persons who was were or shall be liable as aforesaid to the repair of any such old highway or road which hath been or shall be so diverted and turned, (6.) shall respectively be and continue in the same manner liable to the repair of such new highway or road or so much thereof as shall be equal to the burthen and expence of repairing such old highway or road from which he she or they shall be exonerated by turning the same as aforesaid; and that if the several parties interested cannot agree therein, the same shall be viewed by two justices of the peace of the limit where such road shall be, and settled adjusted and determined by them in such manner as they shall think just and reasonable; and from and after such determination of the justices, the inhabitants of the said parish township or place or the person or persons liable to repair such new highway or road as aforesaid shall bear all charges and expences of indictments and prosecutions for not repairing the same: and if it shall be found more convenient to fix a gross sum or an annual sum to be paid by any such inhabitants or person or persons towards the repair of such new highway or road instead of fixing the part or proportion of such new highway or road to be repaired by him her or them, the said justices may with the consent of such person or persons and also of the inhabitants interested therein obtained at a vestry or publick meeting held for that purpose, and also of the trustees at a publick meeting if it be turnpike road, order and direct the same accordingly; which order shall be and for ever after continue binding to all persons whomsoever. (7.)

If Action be brought against a Trustee, Evidence of his being appointed and acting, sufficient.

LXIV. And be it further enacted, That in all cases where any action shall be brought by or against any trustee or trustees of any turnpike road, evidence of such trustee or trustees having acted as such, together with the Act of Parliament by which he or they was or were appointed or the order or a copy of the order for his or their appointment or election, in case he or they was or were appointed or elected by the trustees, shall be sufficient proof of his or their being a trustee or trustees.

Treasurers and Surveyors who have not given Security, shall give Bond, &c.

LXV. And be it further enacted, That every treasurer and surveyor of any turnpike road, who hath not already given proper security to the trustees of such turnpike road duly to pay and account for the money which hath come or shall come to his hands as treasurer or surveyor, shall on or before the twenty-fifth day of *December* next, and every succeeding treasurer and surveyor shall within one month after his appointment, give a bond to the said trustees with a sufficient surety in such penalty as the said trustees at any public meeting shall direct, conditioned for the duly paying and accounting for all such money which shall be then in his hands or which he shall afterwards receive as treasurer or surveyor according to the directions of the several Acts of Parliament respecting such turnpike road; which bond shall be wrote upon paper without any stamp thereupon.

Trustees to put a Table of the Tolls, &c.

LXVI. And be it further enacted, That upon the thirtieth day of *September* one thousand seven hundred and seventy-three the trustees of every turnpike road within that part of *Great Britain* called *England*

(6.) This Provision extends to Roads widened by virtue of 13 George III. c. 78. sec. 16. R. v. Balme, Cowp. 648.

(7.) This Section only refers to diversions of Highways under writs of *Ad quod Damnum*, and under 13 Geo. 3. c. 78. § 19. Rex. v. Netherthong (Inhab.), 2 B. & A. 1

shall and are hereby required to be put up or cause to be put up and afterwards to be continued upon every toll-gate within their respective districts a table of all the tolls payable at every such gate, distinguishing each toll and the different sorts of carriages for which they are to be paid where there shall be any variation therein; and also a table of the weights allowed for each carriage with the loading thereof in summer and winter: and that the said trustees shall and are hereby required from time to time to examine and inspect or cause to be examined and inspected every weighing engine which shall be erected upon their respective turnpike roads, in order to see that the same with the weights belonging thereto are kept in good condition to weigh the carriages and loading with accuracy.

Two Oxen to be considered as one Horse.

LXVII. And be it further enacted, That in all carriages wherein oxen or neat cattle shall be used, two oxen or neat cattle shall be considered as one horse for all the purposes mentioned in this Act or any particular turnpike Act with respect to tolls or other things.

Name of the Owner of every Waggon, &c. used for Hire to be painted upon it.

LXVIII. 'And for the better discovery of offenders against this Act,' Be it enacted, That the owner of every waggon wain or cart and also of every coach post-chaise or other carriage let to hire shall paint or cause to be painted upon some conspicuous part of his waggon wain or cart and upon the pannels of the doors of all such coaches post-chaises or other carriages before the same shall be used upon any turnpike road his or her christian and surname and the place of his or her abode in large legible letters, and continue the same thereupon so long as such waggon cart coach post-chaise or other carriage shall be used upon any such turnpike road; and the owner of every common stage waggon or cart employed in travelling stages from town to town shall over and above his or her christian and surname paint or cause to be painted on the part and in the manner aforesaid the following words, *Common Stage Waggon* (or *Cart* as the case may be); and every person using any such carriage as aforesaid upon any turnpike road without the names and descriptions painted thereon respectively as aforesaid, or who shall paint or cause to be painted any false or fictitious name or place of abode on such waggon wain cart coach post-chaise or other carriage, shall forfeit for every such offence a sum not exceeding five pounds nor less than twenty shillings.

Repealed by 16 Geo. 3. c. 39.

LXIX. And be it further enacted, That from and after the twenty-ninth day of *September* one thousand seven hundred and seventy-six the tire of the wheels of all waggons wains carts and carriages to be used upon any turnpike road shall be countersunk in placing the same upon the fellies in such manner that the nails shall not rise above the surface and that the sole or surface of the wheels shall be quite flat; and the owner of every carriage offending therein shall forfeit the sum of forty shillings; and every driver not being the owner the sum of twenty shillings for every offence.

When the Powers for providing Materials, &c. are ineffectual, and more ample Powers are given by the Highway Act,

LXX. 'And whereas the powers given by several turnpike Acts are 'ineffectual for the purposes of digging providing and carrying materials 'for the use of the turnpike roads therein described and also for the purposes of enlarging diverting and turning such turnpike roads and stopping up selling and disposing of the old roads so to be diverted and turned; and also for the making opening and cleansing of ditches and drains and the cutting and pruning of hedges and trees; and also for the calling forth and compelling the performance of the statute-duty which shall belong to such turnpike roads: and whereas more ample powers under proper guards and restrictions have been given or may be given for the several purposes aforesaid by certain clauses provisions and regulations contained or to be contained in the Act or Acts of Parliament made or to be made for the amendment and preservation of the highways in general (which highways comprehend and include turnpike roads;) and it may be more beneficial to the turnpike roads and to the publick if the surveyors of turnpike roads were authorised within their respective limits to apply part of the tolls and statute-duty in carrying the said powers into execution for the use and improvement of such turnpike roads;' Be it therefore enacted, That the surveyors of

the Surveyor may enforce

these Powers under the Restrictions in the Highway Act.

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every turnpike road within that part of *Great Britain* called *England* shall and may with the approbation of the trustees of every such turnpike road apply any part of the tolls and statute-duty arising to from or in respect of every such turnpike road in the execution of all and every the said powers clauses provisions and regulations which are or shall be contained in the said Act or Acts of Parliament for the amendment and preservation of the highways, and shall and may execute and enforce the same upon and to the benefit and improvement of such turnpike roads respectively for the several purposes aforesaid as fully and amply but upon such terms under such restrictions and in such manner and form to all intents and purposes as the surveyor of any parish township or place can or may do or apply the same by virtue of or under such Act or Acts of Parliament.

LXXI. Provided nevertheless, and be it further enacted, That when any materials shall be dug or got by the surveyor of any turnpike road in the several or inclosed lands or grounds of any person or persons for the use of any turnpike road, by or under the authority of this Act or of the said Act or Acts, for the amendment and preservation of the highways, satisfaction shall be made by the trustees of such turnpike road to the owner or occupier of such lands or grounds for the materials so to be dug or got, and also for the damages in carrying away the same, in such manner as satisfaction is or shall be required to be made for the damages occasioned by the digging getting and carrying away the materials in several or inclosed lands or grounds by virtue of the said Act or Acts for the amendment and preservation of the highways.

Forms contained in the Schedule to be used.

LXXII. And be it further enacted, That the forms of proceedings relative to the several matters contained in this Act, which are set forth and expressed in the Schedule hereunto annexed, shall be used upon all occasions with such additions or variations only as may be necessary to adapt them to the particular exigencies of the case; and that no objection shall be made or advantage taken for want of form in any such proceedings by any person or persons whomsoever.

Persons employed with Salaries, refusing to execute the Act, &c. forfeit 10*l.*

LXXIII. And to enforce further a due observance of this Act, Be it enacted, That every constable headborough or tithingman refusing or neglecting to put this Act into execution, or to account for and deliver any forfeiture or penalty according to the directions of this Act, and every surveyor of any turnpike road and every toll-gatherer and all other persons employed or to be employed by trustees appointed or to be appointed for the repairing roads, as do or shall receive salaries or rewards, who shall wilfully neglect for the space of one week after the offence committed to lay such information upon oath before one or more of his Majesty's justices of the peace for the limit wherein such offence was committed as by this Act is directed, shall upon due information made upon oath before one of his Majesty's justices of the peace for the said limit forfeit for every such neglect the sum of ten pounds.

Inhabitants good Witnesses.

LXXIV. Provided always and be it further enacted, That no conviction shall be had or made by virtue of this Act, unless upon confession of the party accused or upon the oath of one or more credible witness or witnesses; and that any inhabitant of any parish township or place in which any offence shall be committed contrary to this Act shall be deemed a competent witness, notwithstanding his or her being an inhabitant of such parish township or place; and that any justice of the peace may act in the execution of this Act, notwithstanding he may be a creditor or a trustee for repairing and amending the roads on which any offence contrary to this Act shall be committed.

Persons resisting the Execution, or assaulting Collectors,

LXXV. And be it further enacted, That in case any person or persons shall resist or make forcible opposition against any person or persons employed in the due execution of this Act or any particular Act made for amending any particular highway, or shall assault any collector or collectors of the tolls in the execution of his or their office or offices, or shall pass through any turnpike gate or gates rail or rails chain or chains or other fence or fences set up or to be set up by authority of Parliament, without paying the toll appointed to be paid at such gate or other fence;

or shall hinder or attempt to prevent or obstruct any such person or persons in the measuring or guaging the wheels of any carriage, or make any rescue of cattle or other goods distrained by virtue of this Act: or if any constable headborough or tithingman shall refuse or neglect to execute any warrant granted by any justice or justices of the peace pursuant to the directions of this Act; every such person offending therein and being convicted thereof in manner aforesaid shall for every such offence forfeit any sum not exceeding ten pounds nor less than forty shillings, at the discretion of the justice or justices of the peace before whom he or she shall be so convicted, to be paid to the surveyor of the turnpike roads where the offence was committed and laid out in the repairs thereof: and in case he or she do not forthwith pay or secure to be paid the said forfeiture after such conviction, then it shall and may be lawful for such justice or justices of the peace to commit such person or persons to the common gaol or house of correction of the county division or place where such offence shall be committed, there to remain for any time not exceeding three months, unless the said forfeiture shall be sooner paid.

and Constables disobeying, forfeit not exceeding 10*l.* nor less than 40*s.*

LXXVI. And be it further enacted, That all penalties and forfeitures by this Act imposed for any offence against the same, and all costs and charges to be allowed and ordered by the authority of this Act (the manner of levying and recovering of which is not hereby otherwise particularly directed), shall be levied by distress and sale of the goods and chattels of the offender or person liable or ordered to pay the same respectively, by warrant under the hand and seal of some justice of the peace for the limit where such offence neglect or default shall happen, and such order for payment of such costs or charges shall be made, rendering the overplus of such distress and sale, if any, to the party or parties, after deducting the charges of making the same; which warrants such justice is hereby empowered and required to grant upon conviction of the offender, by confession or upon the oath of one or more credible witness or witnesses or upon order made as aforesaid; and the penalties and forfeitures costs and charges when so levied shall be paid the one half to the informer and the other half to the surveyor of the turnpike road where such offence neglect or default shall happen, to be employed towards the repair thereof, unless otherwise directed by this Act: and in case such distress cannot be found and such penalties and forfeitures or the said costs or charges shall not be forthwith paid, it shall and may be lawful for such justice and he is hereby authorised and required, by warrant under his hand and seal, to commit such offender or offenders or person or persons liable to pay the same respectively to the common gaol or house of correction of the limit where the offence shall be committed or such order as aforesaid shall be made, for any time not exceeding three months, unless the said penalty forfeiture costs or charges shall respectively be sooner paid: and if such offender or offenders or person or persons liable or ordered to pay the same respectively shall live out of the jurisdiction of the justice or justices hereby authorised to grant such warrant, it shall and may be lawful for any justice of the peace of the limit wherein such person shall inhabit, and every such justice is hereby required, upon request to him for that purpose made, and upon a true copy of the conviction whereby such forfeiture or penalty was incurred, or of the order for the payment of such costs or charges produced and proved by a credible witness upon oath, by warrant under his hand and seal to cause the penalty or forfeiture mentioned in such conviction or the costs or charges mentioned in such order to be levied by distress and sale of the goods and chattels of such offender or offenders or person or persons liable or ordered to pay the same respectively as aforesaid; and if no sufficient distress can be had, to commit such offender or offenders or person or persons liable as aforesaid to the common gaol or house of correction of such limit for the time and in manner aforesaid.

Penalties and Forfeitures.

LXXVII. Provided nevertheless, That no warrant of distress, unless otherwise directed by this Act, shall be issued for levying any penalty or forfeiture costs or charges until six days after the offender shall have

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13 Geo. III. c. 84.

been convicted and an order made and served upon him or her for payment thereof.

LXXVIII. Provided also and be it enacted, That whatever penalty or forfeiture shall be levied or recovered on the information of the surveyor of any turnpike road, or of any toll gatherer or other person employed by the trustees appointed for repairing the roads and receiving salaries or rewards for their services, and not otherwise directed by this Act, shall go and be applied to the amending of the said turnpike roads respectively and to no other use or purpose whatever; any thing in this or any other Act to the contrary notwithstanding.

Prosecutors may recover by Information, or by Action, &c.

LXXIX. And be it enacted, That every prosecutor or informer may at his election sue for and recover any forfeiture or penalty imposed by this or any other Act or Acts of Parliament made for erecting turnpikes or for repairing and amending turnpike roads in the manner hereafter mentioned; that is to say, if the same shall not amount to the sum of forty shillings it shall be recoverable only by information before a justice of the peace; and if the same shall amount to forty shillings or upwards it shall and may be recovered either by information as aforesaid or by action of debt in any of his Majesty's courts of record, in which it shall be sufficient to declare that the defendant is indebted to the plaintiff in the sum of being forfeited by an Act passed in the thirteenth year of the reign of his present Majesty, intituled *An Act to explain, amend and reduce into one Act of Parliament the General Laws now in being for regulating the Turnpike Roads in that Part of* Great Britain *called* England, *and for other Purposes;* and the plaintiff, if he recover in any such action, shall have full costs: Provided that there shall not be more than one recovery for the same offence; and that ten days' notice in writing be given to the party offending previous to the commencement of such action; and that the same be brought and commenced within one calendar month after the offence for which such action is brought shall have been committed.

Party aggrieved may recover Satisfaction for special Damages.

LXXX. And be it further enacted, That where any distress shall be made for any sum or sums of money to be levied by virtue of this Act the distress itself shall not be deemed unlawful nor the party or parties making the same be deemed a trespasser or trespassers on account of any default or want of form in any proceedings relating thereto; nor shall the party or parties distraining be deemed a trespasser or trespassers *ab initio*, on account of any irregularity which shall be afterwards done by the party or parties distraining; but the person or persons aggrieved by such irregularity may recover full satisfaction for the special damage in an action on the case.

Tender of Amends.

LXXXI. Provided always, That no plaintiff or plaintiffs shall recover in any action for any such irregularity trespass or wrongful proceedings, if tender of sufficient amends shall be made by or on the behalf of the party or parties who shall have committed or caused to be committed any such irregularity or wrongful proceedings before such action brought; and in case no such tender shall have been made, it shall and may be lawful for the defendant in any such action, by leave of the court where such action shall depend, at any time before issue joined, to pay into court such sum of money as he or they shall see fit; whereupon such proceedings or orders and judgments shall be had made and given in and by such court as in other actions where the defendant is allowed to pay money into court.

Money into Court.

Appeal.

LXXXII. Provided also and be it further enacted, That if any person shall think himself or herself aggrieved by any thing done by any justice or justices of the peace in pursuance of this Act, except under the particular circumstances hereafter mentioned, and for which no particular method of relief hath been already appointed, such person may appeal to the justices of the peace at any general quarter sessions of the peace to be held for the limit wherein the cause of such complaint shall arise; such appellant first giving or causing to be given to such justice by whose act or acts such person shall think himself or herself aggrieved, notice in writing of his or her intention to bring such appeal, and of the matter

thereof, within six days after the cause of such complaint arose, and within four days after such notice entering into recognisance before some justice of the peace with one sufficient surety conditioned to try such appeal at and abide the order of and pay such costs as shall be awarded by the justices at such quarter sessions, and each and every justice of the peace, having received notice of such appeal as aforesaid, shall return all proceedings whatever had before them respectively touching the matter of such appeal to the said justices at their general quarter sessions aforesaid on pain of forfeiting five pounds for every such neglect; and the said justices at such session, upon due proof of such notice being given as aforesaid and of the entering into such recognisance, shall hear and finally determine the causes and matters of such appeal in a summary way, and award such costs to the parties appealing or appealed against as they the said justices shall think proper, to be levied and recovered as hereinbefore directed; and the determination of such quarter sessions shall be final and conclusive to all intents and purposes, and no proceeding to be had or taken in pursuance of this Act shall be quashed or vacated for want of form, or removed by *certiorari*, or any other writ or process whatsoever, into any of his Majesty's courts of record at *Westminster;* any law or statute to the contrary notwithstanding.

No Certiorari.

LXXXIII. Provided, That no such appeal shall be made against any conviction for any penalty or forfeiture incurred by virtue of this Act, unless the person convicted shall at the time of such conviction if he shall be then present, if not, within six days after, give or cause to be given notice of his or her intention to appeal, and at the same time enter into recognisance or give security with sufficient sureties to pay such penalty or forfeiture in case such conviction shall be affirmed upon such appeal, and upon his or her giving such security the further proceedings for such penalty or forfeiture shall be suspended until such appeal shall be heard and determined.

No Appeal, unless the Party give Notice thereof, &c.

LXXXIV. And be it enacted, That where any oath is hereby required and directed to be made or taken, the justices of the peace of any limit or the trustees of any turnpike road (as the case may be) and according to the several jurisdictions herein given to them respectively as aforesaid shall and they are hereby respectively empowered to administer the same.

Power to administer Oaths.

LXXXV. And be it further enacted, That if any action or suit shall be commenced against any person or persons for any thing done or acted in pursuance of this Act; (8.) then and in every such case such action or suit shall be commenced or prosecuted within three calendar months after the fact committed and not afterwards; and the same and every such action or suit shall be brought in the county where the person against whom such action or suit shall be commenced doth ordinarily inhabit or reside or where the fact was committed and not elsewhere; and the defendant or defendants in every such action or suit shall and may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon and that the same was done in pursuance and by the authority of this Act: and if the same shall appear to have been so done, or if any such action or suit shall be brought after the time limited for bringing the same, or be brought and laid in any other county than as aforementioned, then the jury shall find for the defendant or defendants; or if the plaintiff or plaintiffs shall become nonsuit or discontinue his her or their action after the defendant or defendants shall have appeared, or if upon demurrer judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall and may recover treble costs, and have the like remedy for recovery thereof as any defendant or defendants hath or have in any cases by law.

Action to be brought within Three Months, &c.

General Issue.

LXXXVI. And be it further enacted, That from and after the twenty-eighth day of *September* one thousand seven hundred and seventy-three an Act passed in the seventh year of his present Majesty's reign, intituled "An Act to explain amend and reduce into one Act of Parliament the

7 Geo. 3. *repealed.*

See 14 Geo. 3. c. 14. 36. 57. 82.

(8.) This Clause does not extend to the Functions imposed on the Keepers of Turnpike Gates with respect to the Post-horse Duties, Basing v. Skelton, 5 T. R. 18.

No. II.
13 Geo. III. c. 84.
16 Geo. 3. c. 39. 44.

general laws now in being for regulating the turnpike roads of this kingdom, and for other purposes therein mentioned," (except so much thereof as repeals the several Acts therein mentioned) shall be and the same is hereby repealed; and that this Act shall commence and take effect on the twenty-ninth day of *September* one thousand seven hundred and seventy three.

The Schedule referred to, containing the Form of Proceedings.

No. I. Order of Trustees for erecting a Weighing Engine.

At a Meeting of the Trustees of the Turnpike Roads, under an Act passed in the Thirteenth Year of the Reign of his Majesty King George *the Third, for* [state the principal part of the title of the Act] *held at the Day of* 17

IN pursuance of the powers given to us by an Act, passed in the thirteenth year of the reign of his Majesty King *George* the Third, *for regulating the Turnpike Roads*, we do hereby order that an engine proper for the weighing of carriages, of the constructions and weights specified in the said Act, be forthwith erected at or as near as conveniently may be to the toll-gate or bar now erected upon the said turnpike-road at and that *A. B.* the (*Treasurer*) *Clerk*) or *Surveyor*) of the said turnpike-road do contract with some proper person (or with *C. D.*) (*in case the Trustees shall think fit to name the person*), for the making and erecting such engine, and do inspect and take care that the same is properly done: and we do order the gate-keeper at the said gate or bar for the time being to attend the said weighing engine and carefully to weigh all carriages passing loaded upon the said road at the place where such engine shall be erected, together with the loading thereof, and to take the several additional tolls or rates for overweight and give tickets of the weight of such carriages and loading when required by the driver thereof, according to the directions of the said Act; and also to enter in a separate book, to be kept by him for that purpose, an account of every carriage so weighed, which shall with the loading, exceed the weights allowed by the said Act, and account to us for the money received for all such overweight.

(*To be signed by Five at least of the Trustees.*)

No. II. Table of Weights allowed in Winter and Summer to Carriages directed to be weighed, including the Carriage and Loading, by the Act of the Thirteenth *George* the Third.

	Summer. Ts. Ct.	Winter. Ts. Ct.
TO every waggon upon rollers of the breadth of sixteen inches	8 —	7 —
To every waggon with nine-inch wheels, rolling a surface of sixteen inches on each side	6 10	6 —
To every waggon with nine-inch wheels	6 —	5 10
To every cart with nine-inch wheels	3 —	2 15
To every waggon with six-inch wheels	4 5	3 15
To every waggon with six-inch wheels, rolling a surface of eleven inches	5 10	5 —
To every cart with six-inch wheels	2 12	2 7
To every waggon with wheels of less breadth than six inches	3 10	3 —
To every cart with wheels of less breadth than six inches	1 10	1 7

No. III. Agreement between Trustees of different Turnpike Roads, for erecting one Weighing Engine for the Use of such Roads.

At a Meeting of the Trustees of the Turnpike Roads, under an Act passed in the Year of the Reign of King George *the*

for [state the principal part of the title of the Act], *and also of the Trustees of the Turnpike Roads, under an Act passed in the Year of the Reign of King* George *the for* (&c. as above), *held at the day of* 17 *for the purpose of agreeing upon and ordering a Weighing Engine, at the joint expence of the Trustees, for the use of the said several Turnpike Roads, pursuant to the powers given by an Act passed in the thirteenth Year of the Reign of his Majesty King* George *the Third, for regulating the Turnpike Roads.*

IT appearing to us that a weighing engine may be erected at *(describing the spot where it can be most conveniently placed)*, which will accommodate both the said turnpike roads according to the true intent and meaning of the said Act; and do therefore order, *&c. (as in the form above mentioned)*, and we do hereby agree and order, That the expences of making and erecting the said weighing engine and the sum of which we do hereby agree and order shall be paid to the toll-gatherer attending the said toll-gate for the time being weekly, for his extraordinary trouble in attending the said weighing engine, shall be advanced and paid by the treasurers of the said several turnpike roads in the shares and proportions following; *videlicet*, That the treasurer of the road shall pay *(one half) two-thirds)* or *three-fourths)* parts thereof *(as the trustees shall agree)*, and the treasurer of the road shall pay the remaining *(one half) one third)* or *(one-fourth)* part thereof; and that the money to be received at the said weighing engine by forfeitures for overweight shall be paid to the said respective treasurers in the like proportions and applied by them for the use of the said respective turnpike roads.

No. IV. Complaint to the Court of Quarter Sessions of a Turnpike Road being damaged by excessive Weights, and that there is no Weighing Engine upon it.

To the Justices at the General Quarter Sessions of the Peace for the (County) Riding) Division) *of*

WE whose names are subscribed being *(creditors* or *trustees)* under an Act passed in the year of the reign of King *George* the for, *&c.* [*state the principal part of the title of the Act*], do hereby complain to the justices at the said court that a part of the said turnpike road lying between and is much damaged by the carriage of excessive weights thereupon, and that the trustees of the said turnpike road have hitherto neglected to erect or order any weighing engine to be erected upon the said road pursuant to the powers given to them by the Act passed in the thirteenth year of the reign of King *George* the Third, *for regulating the Turnpike Roads;* and we apprehend that if a weighing engine was to be erected upon the said road pursuant to the said Act at or near the toll-gate at (or known by the name of the gate), it would contribute greatly to the preservation of the said road.

Signed this day of 17

(If a Justice of Peace makes the Complaint, the Form will be as under;)

Middlesex. I *A. B.* one of his Majesty's Justices of the Peace for the said county, do hereby complain, *&c. (as above.)*

No. V. Notice of a Meeting of Trustees, for ordering a Side-gate to be erected.

NOTICE is hereby given, That the Trustees of the turnpike roads under an Act passed in the year of the reign of King *George* the for [*state the material parts of the title of the Act*], will meet at the house of at on the day of next, at the hour of in the noon, in order to consult about erecting a toll-gate on

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13 Geo. III. c. 84.

the side of the said turnpike road at or near a place called across a certain highway there leading to

Dated the day of 17

A. B. Clerk to the said Trustees.

No. VI. Order of the Trustees for erecting a Side-gate.

AT a meeting of the Trustees of the turnpike roads under an Act passed in the year of the reign of King *George* the for [*here state the material parts of the title of the Act*], being assembled this day of 17 to enforce the directions of an Act passed in the thirteenth year of the reign of King *George* the Third, *for regulating the Turnpike Roads* (as far as the same respects the erecting of side-gates), in pursuance of publick notice given in writing upon all the toll-gates erected on the said road, and also in the newspapers circulated in this part of the country for twenty-one days now last past; we do order, That a toll-gate shall be erected on the side of the said turnpike road at or near a place called across a certain highway there leading to and that the following toll be taken at the said gate; *videlicet*, [*here insert the particular tolls to be taken at the said side-gate.*]

(This to be signed by Nine Trustees at least.)

No. VII. Order of Trustees for permitting Carriages with Six-inch Wheels to be drawn by Horses in Pairs.

AT a meeting of the Trustees of the turnpike roads, under an Act passed in the year of the reign of King *George* the for, *&c.* [*state the material part of the title of the Act*], held at on the day of one thousand seven hundred it was requested by several persons that liberty should be given to draw carriages with fellies of the breadth of six inches by horses in pairs; and the state and condition of the said turnpike road being taken into consideration, and it appearing to us that the said request may be granted without prejudice to the said turnpike roads, we do hereby authorise all persons who shall use carriages with fellies of the breadth of six inches upon the said turnpike road to draw such carriages with horses in pairs if they shall think fit, from and after the day of next, pursuant to the power given to us by an Act passed in the thirteenth year of the reign of his Majesty King *George* the Third, *for regulating Turnpike Roads.*

(This meeting must consist of Seven or more Trustees.)

No. VIII. Notice for letting Tolls.

NOTICE is hereby given, That the tolls arising at the toll-gate *(or toll-gates, if more than one)*, upon the turnpike road at called or known by the name of the gate will be let by auction to the best bidder at the house of at on the day of next, between the hours of and in the manner directed by the Act passed in the thirteenth year of the reign of his Majesty King *George* the Third *for regulating the Turnpike Roads;* which tolls produced the last year the sum of above the expences of collecting them and will be put up at that sum. Whoever happens to be the best bidder must at the same time give security with sufficient sureties to the satisfaction of the trustees of the said turnpike road for payment of the rent agreed for at such times as they shall direct.

A. B. Clerk to the Trustees of the said turnpike road.

No. IX. Order of Trustees for reducing the Tolls.

At a Meeting of the Trustees of the Turnpike Roads under an Act passed in the Year of the Reign of King George *the for*, &c. [state the principal part of the title of the Act], *held at the Day of* 17

WHEREAS by the said Act there was no power (*or no effectual power*) given (*as the case may be*) to the trustees to lessen the tolls authorised to be taken by the said Act; we whose names are subscribed being seven or more of the trustees acting under the said Act, being now assembled for reducing the tolls authorised to be taken by and under the said Act, pursuant to publick notice given for that purpose in the newspapers circulated in this part of the country, and also affixed upon all the turnpike-gates erected upon the said turnpike road for upwards of one calendar month now last past; and having the consent of the several persons intitled to five-sixth parts of the money now remaining due upon the credit of the said tolls this day signified and proved to us, do hereby order that the tolls granted by the said Act shall from and after the day of one thousand seven hundred be lessened and reduced in the following manner: [*Here state the several reductions proposed to be made.*]

No. X. Order of two Justices for determining what Repairs shall be done to new Roads by Persons who are discharged from the Repair of old Roads.

Middlesex. WE, two of his Majesty's Justices of the Peace for the said county, acting within the (*hundred*) of in the said county, having (at the request of the parties interested in part of the highway (*or turnpike road*) hereafter mentioned, who could not agree about the repair thereof), viewed a certain part of the highway (*or turnpike road*) described in the plan hereunto annexed, of the length of yards, which hath been set out and appropriated for a new highway (*or turnpike road*) between and in lieu of an old highway or (*turnpike road*), which hath been ordered to be stopped up; and having also viewed the ground where the said old highway was situated, and having summoned the surveyor of the said new highway (*or turnpike road*), and also *A. B.* (*who was liable by tenure*, &c.) *If the said old road lay in a different parish, and was to be repaired by the inhabitants,* [*leave out the words in italick, and insert* (*the Surveyor of the* (*parish*, &c.] *of where the said old road lay, who were liable*) to the repair of the said old highway (*or turnpike road*), to appear before us this day; and having heard what has been alleged touching the repairs of the said part of the said highway (*or turnpike road*), and having fully considered the same and all the circumstances of the case, we think it just and reasonable, and do hereby order and (*adjudge*) that the said *A. B.* (*or the inhabitants of the said parish*, &c.) shall from time to time repair and keep in repair the whole (or a part of the said highway) from to containing yards in length, at each end whereof we have caused a post or stone to be placed to ascertain the extent thereof.

Given under our hands and seals this day of 17

(*If it be agreed by the consent of the parties to pay a sum in gross in lieu of such repairs, after the word* (adjudge) *insert* (By and with the consent of the said *A. B.* signified by his subscribing his name to this order), (or by the consent of the inhabitants of the said (*parish*, &c.) of signified in writing at a vestry or other publick meeting, a copy whereof is hereunder written), that the said *A. B* (*or the inhabitants*, &c.) is (*or are*) liable to repair part of the said new highway; and that if he (*or they*) shall, on or before the day of next, pay to the Surveyors of the Highways of the said (*parish*, &c.) of (*if it is not turnpike road*), and if it be turnpike road (*to the Treasurer of the said turnpike road*), the sum of he the said *A. B.* and his heirs (*or the*

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said inhabitants and their successors) shall be for ever acquitted and discharged from the burden and obligation to repair the said new highway or any part thereof.

(*If it be by the Consent of Parties agreed to pay an annual sum in lieu of such Repairs, the Form will be easily varied, and adapted to that Case.*)

I do consent and agree to the above order. *A. B.*

No. XI. Agreement of Inhabitants, at a Vestry, or Publick Meeting, to pay a gross Sum, or annual Payment, to be discharged from the Repair of a particular Road.

WE, whose names are subscribed, being a majority of the inhabitants of the (*parish*, &c.) of assembled, this day of at a vestry or publick meeting, held pursuant to notice duly given, for the purposes of consulting about an agreement to be made concerning the repair of part of a highway (*or turnpike road*) within the said (*parish*, &c.) of do consent and agree to pay the sum of to be absolutely exonerated and discharged from all future repairs of the said highway (*or turnpike road*) *or if an annual payment be agreed upon*), to pay annually the sum of

No. XII. Agreement between the Trustees of a Turnpike Road, and a Person liable by Tenure to repair some Part of it.

At a Meeting of the Trustees of the Turnpike Roads, under an Act, passed in the Year of the Reign of King George *the for* [state the principal part of the title of the Act] *held at the Day of* 17

WHEREAS *A. B.* of is liable by tenure, &c. (*as the case shall be*) to the repair of a certain highway leading between and of the length of yards or thereabouts, and the said highway being now made turnpike road by virtue of the said Act, will occasion a greater expence to make and keep the same in proper repair than would have been necessary if no such Act had been obtained; and the said *A. B.* attending this meeting in person (*or by C. D.* his attorney or agent, authorised to treat in his behalf) the said trustees and the said *A. B.* &c. in pursuance of a power given by an Act passed in the thirteenth year of the reign of King *George* the Third, *for regulating turnpike roads*, have in order to put and keep the said road in proper condition and repair, come to the following agreement; *videlicet*, That the said trustees shall on or before the day next, pay and allow the sum of out of the tolls arising upon the said turnpike roads towards putting the said road into proper repair, to be laid out and expended by the surveyor of the said turnpike road; and that the said *A. B.* shall advance and pay into the hands of the treasurer of the said turnpike road, on or before the day of next, the sum of to be also laid out and expended by the said surveyor in the repair of the said road; and that from and after the twenty-ninth day of *September* next, the said turnpike road shall be kept in repair by the said trustees out of the said tolls as aforesaid so long as the said turnpike Act shall continue, upon the said *A. B.* paying into the hands of the treasurer the sum of upon the twenty-fifth day of *March* in every year, which the said *A. B.* doth hereby, for himself and his heirs, agree to pay accordingly, so long as the said road shall be so repaired by the said trustees as aforesaid.

[*Or if it be agreed that* A. B. *shall keep the road in repair, upon having an annual allowance in money or statute-duty from the said trustees, let the agreement be varied and adapted to the case.*]

No. XIII. Order of Justices at a Special Session, for proportioning the Statute-duty, where there are two or more Turnpike Roads in the same Place.

Middlesex; *At a Special Sessions held by Justices of the Peace for the said County, acting for the* (Hundred) Riding) Division, *&c.*) *of at within the said* (Hundred, &c.) *the Day of* 17

IT appearing to us that part of the highway lying in the (*parish*, &c.) of was made turnpike road by an Act passed in the year of King *George* the called the turnpike road, and also that part of another highway, lying in the same (*parish*, &c.) was made a turnpike road by an Act passed in the year of the reign of King *George* the called turnpike road; and that, &c. [*state the others in the same manner, if there are more than two*;] and that by the said several Acts more than three days statute-duty are required to be performed by the inhabitants of the said (*parish*, &c.) upon all the said turnpike roads; and we having, pursuant to the directions of this Act, passed in the thirteenth year of the reign of King *George* the Third, *for regulating the turnpike roads*, duly summoned the surveyors of the said several turnpike roads, and also the surveyor of the said (*parish*, &c.) to appear before us this day; and having had regard to the extent and condition of the several highways within the said (*parish*, &c.) and to the tolls and revenues arising from the said turnpike roads, and having heard and considered the whole case, we do order that the inhabitants of the said (*parish*, &c.) shall perform (*one*) day's statute-duty upon the said road called the turnpike road (*one*) other day's statute-duty upon the said road called the turnpike road, &c. under the directions and inspection of the surveyors of those respective turnpike roads; and the remainder of their statute-duty upon the other highways within the said (*parish*, &c.) under the direction and inspection of the surveyor (or, *surveyors*) thereof.

A. B.
C. D.

[*The Proportion of the Duty to be varied as the circumstances of the case shall require.*]

No. XIV. Order of Justices at a Special Sessions, to take Part of the Statute-duty from Turnpike Roads, for the Benefit of other Highways in the said Parish, &c.

Middlesex. *At a Special Sessions, held by Justices of the Peace for the said County, acting in the* (Hundred) *of within the said County, at on the Day of* 17

WHEREAS application and complaint upon oath has been made unto us by *A. B.* Surveyor of the (*parish*, &c.) of that the several highways not being turnpike, within the said (*parish*, &c.) are very extensive and in bad repair, and that a considerable part of the statute-duty arising within the said (*parish*, &c.) hath been called forth and required to be applied in the repair of certain turnpike roads lying within the said (*parish*, &c.) which are in good condition, and have a considerable revenue for their support, arising from the tolls collected thereupon: and we having duly summoned *C. D.* the Surveyor of the said turnpike road to appear before us, to shew cause why the said statute-duty called forth, and applied by him to the repair of the said turnpike road, should not be withdrawn therefrom and applied to the repair of the other highways within the said (*parish*, &c.); and upon hearing the said *C. D.* and receiving an account of the revenues and debts of the said turnpike road, and of the state and condition of the repair of the said turnpike road and highway respectively; and it appearing to us upon full consideration had thereupon, that part of the statute-duty hitherto employed by the

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13 Geo. III. c. 84.

said (*parish*, &c.) for the repair of the said turnpike road, may be conveniently dispensed without endangering the securities for the money advanced upon the credit of the tolls thereof; and that such statute-duty is wanted for the repairs of the other highways within the said parish; we, in pursuance of the power given to us by the Act passed in the thirteenth year of the reign of King *George* the Third, *for regulating Turnpike Roads*, do order, That from and after the twenty-ninth day of *September* next there shall be only (*one*) day's statute-duty performed by the inhabitants of the said (*parish*, &c.) upon the said turnpike road within the same, and that the remainder of the statute-duty shall be performed upon the other highways within the said (*parish*, &c.)

[*If there are more turnpike roads than one, or the whole statute-duty shall be thought fit to be taken away, this form must be varied to fit those cases: the summons to the surveyors will be very easily formed from this order.*]

No. XV. Licence by the Trustees for drawing with an increased Number of Horses up a steep Hill.

At a Meeting of the Trustees of the Turnpike Roads, under an Act passed in the . Year of the Reign of King George *the for* [state the principal Part of the Title of the Act] *held at the Day of* 17

IT appearing to us, upon the oath of being a person experienced in levelling, that the rise of (*part of*) a certain hill upon the said turnpike road, lying in the parish of called or known by the name of Hill, between the post marked (*put on*) and the post marked (*take off*) being yards in length, is above four inches in a yard, we do hereby allow to be drawn up the said hill, between the posts above mentioned, waggons having the soles or bottom of the fellies of the wheels of the breadth of nine inches, with horses; and carts having the like wheels with horses; and waggons having wheels of the breadth of six inches, with horses; and carts having the like wheels, with horses; and waggons having wheels of less breadth than six inches, with horses; and carts having the like wheels, with horses.

[*This form is calculated where any part of the hill between those posts rises above four inches in a yard; but if the whole rise between the posts shall be upon an average more than four inches in a yard, before the word* (above) *insert* (upon an average), *which will authorise the justices to allow more horses than mentioned in the Act.*]

No. XVI. Certificate of the above Order to the Justices of Peace at their Quarter Sessions.

I *A. B.* Clerk to the Trustees, mentioned in the above order, do hereby certify to the Justices of the Peace for the (*county*) *riding*) *division*) of at their General Quarter Sessions of the Peace, that the above is a true copy of the order made by the said trustees for the purposes therein mentioned.

Dated this day of 17

A. B.

No. XVII. Agreement by Subscription for advancing Money to make and repair a Turnpike Road or Highway.

WE whose names are subscribed do agree to advance and pay the several sums wrote by us opposite to our names, unto to be laid out and expended in the making and repairing a certain highway leading from to after an Act of Parliament shall be obtained for making the same turnpike road, upon having the tolls to be collected upon such turnpike road assigned and made over to us, as a security for the respective sums so to be advanced by us, together with interest for

the same after the rate of *per centum per annum*; which sums we do hereby severally agree to pay by instalments in the following manner; *videlicet*, one fourth part thereof on the day of next, one other fourth part (&c. &c. &c.)

Dated this day of 17

No. XVIII. Warrant from a Justice of Peace to enter the Toll-gate House, and remove the Persons therein.

Middlesex. *To the* (Constable) Headborough) Tithingman) *of in the said County.*

WHEREAS complaint hath been made unto me *A. B.* Esquire, one of his Majesty's Justices of the Peace for the said county, upon the oath of and other evidence now produced to me, that *C. D.* who now inhabits the turnpike or toll-gate house at upon the turnpike road leading from to and was appointed to collect the tolls there, hath been duly discharged by the trustees of the said turnpike road from any further collecting or receiving the tolls arising at the said gate, and hath refused and still doth refuse to quit the possession of the said house; and the said *C. D.* having been summoned to appear before me this day to shew cause why he should not be removed from the said house, and having shewn no sufficient cause for that purpose, I do hereby authorise and require you with such assistance as shall be necessary to enter into the said toll-house or turnpike-house and the buildings belonging thereto in the daytime and to remove the said *C. D.* and all such persons as shall be found therein, together with his and their goods, out of such house and buildings, and to put *E. F.* the person lately appointed by the trustees to collect such tolls into the possession thereof, for which this shall be your sufficient warrant.

Given under my hand and seal, this day 17

No. XIX. Notice for Contracts to be made, for getting and carrying Materials.

NOTICE is hereby given, That *A. B.* Surveyor of the Turnpike Road lying between and will, on the day of next, at the hour of in the noon, let the getting of *(tons)* of gravel, *or* *(tons)* of stone, to be got at a pit at for the use of the said turnpike road, and will also let the carriage of the said gravel (or *stone)* from the said pit to where the same is to be used and employed upon the said turnpike road; and all persons desirous of entering into a contract with the said surveyor, either for getting or carrying the said materials, are desired to attend at the time and place before mentioned.

Dated this day of 17

A. B.

No. XX. Bond from the Surveyor.

WE, *A. B.* Surveyor of the Turnpike Roads, under an Act passed in the year of the reign of King *George* the for [*state the principal part of the title of the Act*] and *C. D.* of are bound to *E. F.* of in the sum of pounds, to be paid to the said *E. F.* his executors administrators or assigns, for which payment we hereby bind ourselves severally and each of our heirs executors and administrators.

Dated the day of 17

The condition of this bond is such, that if the said *A. B.* his executors or administrators shall duly and faithfully account for apply and pay all and every the sum and sums of money which hath come or shall come to his hands as surveyor of the turnpike road aforesaid according to the direction and true intent and meaning of the said Act and of the Statute made in the thirteenth year of the reign of his Majesty King *George* the Third *for regulating the Turnpike Roads*, then this bond to be void or else to remain in full force.

[*The Bond from the Treasurer will be in the same Form.*]

No. II.
13 Geo. III.
c. 84.

No. XXI. Summons for any Person or Persons to attend a Justice or Justices.

Middlesex. *To A. B. of*

WHEREAS complaint and information hath been made upon oath before me, *C. D.* one of his Majesty's Justices of the Peace for the said *(county, &c.)* by *E. F.* of that, &c. [*here state the nature and circumstances of the case as far as it shall be necessary to shew the offence and to bring it within the authority of the justice; and in doing that follow the words of the Act as near as may be.*] These are therefore to require you personally to appear before me *(or the justices to be assembled at their special sessions to be holden)* at in the said *(county, &c.)* on the day of next, at the hour of in the noon, to answer to the said complaint and information made by the said *E. F.* who is likewise directed to be then and there present to make good the same: Herein fail not.

Given under my hand and seal, this day of 17

No. XXII. Information.

Middlesex. BE it Remembered, That on the day of 17 *A. B.* of in the said county, informeth and maketh oath before me one of his Majesty's Justices of the Peace for the said county, that of in the said county [*here describe the offence particularly and follow the words of the Act as near as may be*], contrary to the statute made in the thirteenth year of the reign of King *George* the Third *for regulating the turnpike roads*, which hath imposed a forfeiture of for the said offence.

Taken and sworn the day of } *A. B.*
before me }

No. XXIII. Form of Conviction.

Middlesex. BE it Remembered, That on the day of in the year of our Lord 17 at in the county aforesaid, *A. B.* came before me *C. D.* Esquire, one of his Majesty's Justices of the Peace for the said county, and informed me that *E. F.* of on the day of now last past at in the said county, did [*here set forth the fact in the manner described by the statute*] whereupon the said *E. F.* after being duly summoned to answer the said charge, appeared before me on the day of at in the said county; and having heard the charge contained in the said information declared that he was not guilty of the said offence; but the same being fully proved upon the oath of *G. H.* a credible witness, it manifestly appears to me the said justice that he the said *E. F.* is guilty of the offence charged upon him in the said information; it is therefore considered and adjudged by me the said justice that he the said *E. F.* be convicted, and I do hereby convict him of the offence aforesaid; and I do hereby declare and adjudge that he the said E. F. hath forfeited the sum of of lawful money of *Great Britain* for the offence aforesaid, to be distributed as the law directs, according to the form of the statute in that case made and provided.

Given under my hand and seal, the day of 17

This to be inserted where the Party refuses to appear upon the Summons.

After the words "being duly summoned to answer the said charge" insert *(did not appear before me pursuant to the said summons;)* or, *(did neglect and refuse to make any defence against the said charge; but the same being fully proved,* &c.) as before.

This to be inserted when the Party accused confesses the Charge.

After the words "contained in the said information," insert *(acknowledged and voluntarily confessed the same to be true, and it manifestly appears to me the said justice,* &c.) as above.

No. XXIV. Warrant to distrain for the Forfeiture.

Middlesex. *To the* (Constable) Headborough) *or,* Tithingman) *of*

WHEREAS *A. B.* of in the said county, is this day convicted before me, *C. D.* Esquire, one of his Majesty's Justices of the Peace in and for the said county, upon the oath of *G. H.* a credible witness, for that the said *A. B.* hath [*here set forth the offence, describing it particularly in the words of the statute as near as may be*] (contrary to the statute in that case made and provided,) by reason whereof the said *A. B.* hath forfeited the sum of to be distributed as herein is mentioned, which he hath refused to pay: These are therefore in his Majesty's name to command you to levy the said sum of by distress of the goods and chattels of him the said *A. B.* and if within the space of four days next after such distress by you taken, the said sum together with the reasonable charges of taking and keeping the same shall not be paid, that then you do sell the said goods and chattels so by you distrained, and out of the money arising by such sale that you do pay one half of the said sum of to *E. F.* of who informed me of the said offence, and the other half of the said sum of to *J. K.* the surveyor of the turnpike road (*describing it,*) where the said offence (*neglect or default*) happened, to be employed towards the repair of the said road, returning the overplus on demand to him the said *A. B.* (the reasonable charges of taking keeping and selling the said distress being first deducted;) and if sufficient distress cannot be found of the goods and chattels of the said *A. B.* whereon to levy the said sum of that then you certify the same to me, together with this warrant.

This to be varied according to the Direction of the Act in each particular Case.

Given under my hand and seal, the day of 17 *C. D.*

No. XXV. Return of the Constable to be made upon the Warrant of Distress, where there are no Effects.

I *A. B.* Constable of the (*parish,* &c.) of in the county of do hereby certify and make oath, That by virtue of this warrant I have made diligent search for the goods of the within named and that I can find no sufficient goods whereon to levy the within sum of as witness my hand, the day of 17

Sworn before me, the day and year, &c. *C. D.* } *A. B.*

No. XXVI. Commitment for want of Distress.

Middlesex. *To the* (Constable) *of in the said county, and to the keeper of the common gaol* (*or* the house of correction) *at in the said county.*

WHEREAS *A. B.* of in the said county, was on the day of convicted before me *C. D.* Esquire, one of his Majesty's Justices of the Peace in and for the said county, upon the oath of *E. F.* a credible witness, for that he the said *A. B.* [*here set forth the offence*] contrary to the statute made in the thirteenth year of the reign of his Majesty King *George* the Third *for regulating the turnpike roads,* by reason whereof the said *A. B.* hath forfeited the sum of And whereas on the day of in the year aforesaid, I did issue my warrant to the (*constable*) of to levy the said sum of by distress and sale of the goods and chattels of him the said *A. B.* and to distribute the same according to the directions of the said statute: And whereas it duly appears to me upon the oath of the said (*constable*) that the said (*constable*) hath used his best endeavours to levy the said

No. II.
13 Geo. III. c. 84.

sum on the goods and chattels of the said *A. B.* as aforesaid, but that no sufficient distress can be had whereon to levy the same; these are therefore to command you the said (*constable*) of aforesaid, to apprehend the said *A. B.* and him safely to convey to the common gaol (*or house of correction,*) at in the said county, and there deliver him to the keeper thereof together with this precept; and I do hereby also command you the said keeper to receive and keep in your custody the said *A. B.* for the space of three months, unless the said sum shall be sooner paid pursuant to the said conviction and warrant; and for so doing this shall be your sufficient warrant.

Given under my hand and seal, the day of in the year of our Lord 17 *C.*

No. XXVII. Notice of Appeal to the Quarter Sessions.

A. B. take notice, That I intend to appeal to the next General Quarter Sessions of the Peace to be holden for the (*county*, &c.) of against an (*order, conviction,*) or other proceeding (*as the case may be,*) [*particularly specifying the purport of such* (*order,* &c.) *and assigning the grievance and cause of complaint*].

Dated the day of 17

[No. III.] 14 George III. c. 14.—An Act to repeal a Clause in an Act, made in the Thirteenth Year of his present Majesty's Reign, intituled, "An Act to explain, amend, and reduce into one Act of Parliament the general Laws now in being for regulating the Turnpike Roads in that Part of *Great Britain* called *England*, and for other Purposes;" which regulates the width of the wheels, and the length of Carriages liable to be weighed; and for indemnifying persons who have offended against the said Clause.

14 Geo. III. c. 14.
Clause in 13 Geo. 3. c. 84.

'WHEREAS by a clause in an Act of Parliament made in the thirteenth year of his present Majesty's reign, intituled, 'An Act to explain amend and reduce into one Act of Parliament the general Laws now in being for regulating the Turnpike Roads in that part of *Great Britain* called *England*, and for other Purposes,' it is enacted, That no carriage liable to be weighed by virtue of the said Act shall pass along any turnpike road being above twenty miles from the cities of *London* or *Westminster*, unless the same shall be made and constructed in such manner that no pair of the wheels thereof shall be wider than four feet six inches from inside to inside to be measured on the ground (except wheels having the soles of the fellies thereof of the breadth of nine inches which shall be so constructed as to roll a surface of sixteen inches, and that the wider pair of such wheels shall not be more than five feet eight inches from inside to inside to be measured on the ground); and that the distance from the centre of the fore wheel to the centre of the hind wheel of any waggon or four-wheeled carriage not being used for the carriage of timber only be not above nine feet, to be measured from the centre of the axle-trees at the ends thereof, on pain of the owner or owners of every such waggon wain or cart forfeiting the sum of five pounds for every such offence; and that the surveyor or surveyors gate-keeper or gate-keepers of any turnpike road is and are hereby authorised and required at any turnpike or tollgate or at any other place upon the turnpike road, to measure every such waggon wain or cart; and if any master or driver of any waggon wain or cart shall hinder or refuse to permit such surveyor or surveyors gate-keeper or gate-keepers to measure such waggon wain or cart as aforesaid, he or she shall forfeit the sum of five pounds; and that it shall not be lawful for any such waggon wain or cart not permitted to be

No. III.
14 Geo. III. c. 14.

'measured as aforesaid to pass along any turnpike road: And whereas 'the provisions in the said clause contained have been found very incon- 'venient;' Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That the said clause shall be and is hereby declared to be repealed.

II. And be it further enacted by the authority aforesaid, That all and every person and persons who hath or have offended or been guilty of any omission touching the execution of the said clause shall be and is and are hereby indemnified against any penalty or forfeiture for the same; and that all personal actions and suits indictments informations prosecutions and proceedings whatsoever, which have been or shall be prosecuted or commenced against any person or persons for or by reason of any such offence or omission, shall be and are hereby made void to all intents and purposes whatsoever.

[No. IV.] 14 George III. c. 36.—An Act to explain and amend an Act, made in the Thirteenth Year of his present Majesty's Reign, intituled "An Act to explain, amend, and reduce into one Act of Parliament the general Laws now in being for regulating the Turnpike Roads in that part of *Great Britain* called *England*, and for other Purposes;" so far as the same relates to the continuing and granting an additional Term of five Years to Acts made for amending Turnpike Roads.

14 Geo. III. c. 36.
28 Geo. 2. c. 17.

'WHEREAS by an Act made in the twenty-eighth year of the reign of 'his Majesty King *George* the Second, intituled "An Act to amend 'an Act made in the Twenty-sixth Year of the Reign of his present Ma- 'jesty, intituled 'An Act for the Amendment and Preservation of the 'Publick Highways and Turnpike Roads of this Kingdom, and for the 'more effectual Execution of the Laws relating thereto,"') it was amongst 'other things enacted for the encouragement of broad wheels, that all car- 'riages having the fellies of the wheels of the breadth of nine inches should 'pass through all turnpike-gates without paying any toll for three years: 'And whereas, in order to make recompence to the creditors upon the tolls 'of such gates for any diminution of toll that might arise by such exemp- 'tion, it was further enacted, That every Act of Parliament made in that 'session or theretofore for repairing and amending turnpike roads should 'be continued for five years, to be computed from the expiration of every 'such Act, subject to the tolls duties penalties forfeitures remedies powers 'authorities clauses rules directions payments and provisions by such 'Acts respectively made and enacted: And whereas by one other Act 'made in the seventh year of the reign of his present Majesty, (inti- 'tuled "An Act to explain amend and reduce into one Act of Parlia- 'ment the general Laws now in being for regulating the Turnpike Road 'of this Kingdom, and for other Purposes therein mentioned)," the said 'Act of the twenty-eighth year of his late Majesty, except so much 'thereof as continued the Acts then made for repairing and amending 'turnpike roads subject to the tolls and duties by such Acts respectively 'granted was repealed: And whereas by one other Act made in the thir- 'teenth year of the reign of his present Majesty, (intituled "An Act to 'explain amend and reduce into one Act of Parliament the general Laws 'now in being for regulating the Turnpike Roads in that Part of *Great* '*Britain* called *England*," and for other Purposes,) the said Act of the 'seventh year of his present Majesty, except so much thereof as repealed 'the several Acts therein mentioned, was also repealed: And whereas 'doubts have arisen whether the said last-mentioned Act made in the 'thirteenth year of his present Majesty, by repealing the said Act of the

No. IV.
14 Geo. III. c. 36.

Provisions of Act 28 Geo. 2. c. 17. § 4. continued.

'seventh year of his present Majesty in the manner aforesaid, hath not 'virtually repealed that part of the Act of the twenty-eighth year of his 'late Majesty, which continued the said turnpike Acts for five years; in 'order therefore to obviate all such doubts and to enforce the said provi-'sion for continuing the said turnpike Acts as contained in the said Act of 'the twenty-eighth year of his late Majesty's reign;' Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That the provision made by the said Act of the twenty-eighth year of the reign of his late Majesty for continuing the several Acts made for repairing and amending turnpike roads for five years shall be and continue in full force and be as effectual to all intents and purposes as the same could might or ought to have been if the said Acts of the seventh and thirteenth years of his present Majesty's reign or either of them had not been made; any thing in those Acts or in either of them contained to the contrary notwithstanding.

II. And be it further enacted, That all and every person and persons who hath or have received or shall hereafter receive any tolls or other duties at any turnpike or toll-gate; or who hath acted or shall hereafter act in any other respect under the authority of and in execution of any of the powers of any Act or Acts of Parliament so continued or intended to be continued by the said recited Act of the twenty-eighth year of his late Majesty shall be and is and are hereby indemnified for what he she or they have so received or done or for what he or they shall receive or do by virtue thereof.

[No. V.] 14 Geo. III. c. 82.—An Act for explaining and altering an Act, made in the Thirteenth Year of his present Majesty's Reign, intituled, *An Act to explain and amend and reduce into one Act of Parliament the general Laws now in being for regulating of Turnpike Roads in that Part of* Great Britain *called* England, *and for other Purposes;* so far as the same relates to the Payment of additional Tolls at Weighing Engines, and the Number of Horses to be used in Carriages drawn on Turnpike Roads; and for allowing certain Exemptions with respect to Weight and Payment of Toll in particular Cases.

14 Geo. III. c. 82.

Preamble.

Act 13 Geo. 3. c. 84.

WHEREAS much inconvenience has been found to arise from the heavy additional tolls authorised and directed to be taken by an Act passed in the last session of Parliament, intituled 'An Act to explain and amend and reduce into one Act of Parliament the general Laws now in being for regulating of Turnpike Roads in that Part of *Great Britain* called *England*,' and for other Purposes,' from persons who have in waggons carts or carriages carried greater weights than are thereby allowed upon turnpike roads; And whereas it is expedient and necessary to make some alteration with respect to such additional tolls, in order to prevent innocent persons from suffering unwarily or inadvertently thereby: and whereas the permitting any waggon cart or carriage when weighed at any weighing engine to be drawn by an unlimited number of horses has been found on trial to be inconvenient and liable to abuse; For remedy thereof may it please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That so much of the said before-recited Act as empowers the trustees of any turnpike road to receive and take the additional toll of twenty shillings for every hundred weight which any waggon cart or carriage together

Part of the said Act repealed.

No. V.
14 Geo. III. c. 82.

with its loading shall weigh at any weighing engine over and above the weight allowed thereby; and also so much thereof as permits any waggon cart or carriage after having been weighed as aforesaid to be drawn by an unlimited number of horses; shall be and is hereby repealed.

Additional Tolls to be hereafter taken for extra Weights on Waggons.

And be it further enacted by the authority aforesaid, That from and after the first day of *August* one thousand seven hundred and seventy-four it shall and may be lawful for all trustees appointed by any Act or Acts of Parliament for the repair of any turnpike road within that part of *Great Britain* called *England* or any five or more of them, or for any person or persons properly empowered by any five or more of them, to receive and take over and above the tolls already granted or hereafter to be granted the following sums of money as additional tolls for every hundred weight of one hundred and twelve pounds to the hundred which any waggon cart or carriage together with the loading thereof shall weigh at any weighing engine erected or to be erected over and above the weights by the before-recited Act allowed to each of them respectively; that is to say, for the first and second hundred of such over weight the sum of three pence for each hundred; for every hundred of such over weight above two hundred and not exceeding five hundred the sum of six pence; for every hundred of such over weight above five hundred and not exceeding ten hundred the sum of two shillings and six pence; for every hundred of such over weight above ten hundred and not exceeding fifteen hundred the sum of five shillings; and for every hundred of such over weight above fifteen hundred the sum of twenty shillings: which said additional toll or duty hereby granted and made payable at any weighing engine as aforesaid shall and may be levied and recovered in any of the cases aforesaid upon any person liable thereto or upon his or her goods or chattels who shall after demand made thereof refuse or neglect to pay the same in such manner as any other toll or duty payable at the same toll-gate or bar where any such engine shall be erected is or shall be by law to be levied and recovered; and the money arising from such additional toll or duty shall be applied to the repairs of the turnpike road where the same shall be collected.

No Waggon, Cart, or Carriage, employed in Husbandry, to be weighed.

And be it further enacted, That from and after the said first day of *August* no waggon cart or carriage employed only in husbandry or carrying only manure or lime for the improvement of land, or hay straw fodder or corn unthreshed (excepting hay or straw carried for sale) shall be weighed at any weighing engine now erected or hereafter to be erected; any law or usage to the contrary notwithstanding.

Trustees within 10 Miles of London, &c. may lower the Tolls.

And be it further enacted, That the trustees of the several turnpike roads within ten miles of the cities of *London* and *Westminster* and the borough of *Southwark* may and they are hereby empowered at their general or quarterly meetings to lower the several additional tolls hereby directed to be taken as aforesaid for over weight in such manner as to them shall seem fit and convenient.

Waggons, Carts, &c. moving upon Rollers, &c. to pass Toll-free for Five Years,

and after that Term to pay only half Toll.

And whereas the exemption from toll in the before-recited Act given to waggons carts and carriages moving upon rollers of the breadth of sixteen inches on each side thereof with flat surfaces during the term of one year only is found not to be a sufficient encouragement to induce persons to erect and make use of the same; Be it therefore enacted, That all such waggons carts and carriages shall for and during the term of five years, to be computed from the twenty-ninth day of *September* one thousand seven hundred and seventy-four be permitted to pass or be drawn upon any turnpike road toll-free; any law to the contrary thereof in any wise notwithstanding: and from and after the expiration of such term then to pay half toll only as directed by the before-recited Act.

[See 13 Geo. III. c. 84., ante No. II. Sect. 26.]

[No. VI.] 16 George III. c. 39.—An Act for repealing a Clause in an Act, made in the Thirteenth Year of the Reign of his present Majesty, intituled "An Act to

No. VI.
16 Geo. III.
c. 39.

explain, amend, and reduce into one Act of Parliament the general Laws now in being for regulating the Turnpike Roads in that Part of *Great Britain* called *England*, and for other Purposes;" which relates to the countersinking of the tire of the Wheels of all Waggons, Wains, and other Carriages, to be used on Turnpike Roads; and for explaining a Provision in the said Act, with respect to the Fellies and Tire of Carriages having the Fellies of the Wheels of the Gauge of six Inches or upwards.

16 George III. c. 39.
13 Geo. 3. c. 84. § 69.

'WHEREAS by a clause in an Act of Parliament made in the thirteenth year of his present Majesty's reign, (intituled "An Act to explain amend and reduce into one Act of Parliament the general Laws now in being for regulating the Turnpike Roads in that part of *Great Britain* called *England*, and for other Purposes,") it is enacted, That the tire of the wheels of all waggons wains carts and other carriages to be used on any turnpike road shall be countersunk by placing the same upon the fellies in such manner that the nails shall not rise above the surface and that the sole or surface of the wheels shall be quite flat; and that the owner of every carriage offending therein shall forfeit the sum of forty shillings, and every driver not being the owner the sum of twenty shillings for every offence; which provisions are attended with great inconvenience;' Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That the said clause shall be and the same is hereby repealed.

repealed.

A Provision in the said Act, respecting the Fellies and Tire of Carriages, &c. explained.

II. 'And whereas by the said Act it is provided, That no person or persons shall be allowed to take the benefit of certain exceptions in the said Act mentioned or have the power of compounding for tolls in respect of carriages having the fellies of the wheels thereof of the breadth or gauge of six inches or upwards, unless the fellies and the tire upon such fellies shall lie flat: And whereas doubts may arise concerning the construction of the said provision which according to the strict sense of the words cannot be complied with: To the end therefore that all persons who shall endeavour to comply with the said provisions may receive the benefit of such exemptions and compositions;' Be it further enacted by the authority aforesaid, That all wheels of the breadth or gauge of six inches or upwards, the fellies or tire whereof shall not deviate more than one inch from a flat surface, shall be deemed and taken to be flat according to the true intent and meaning of the said Act.

[No. VII.] 17 George III. c. 16.—An Act for limiting the Exemptions from Toll (granted by any Act or Acts of Parliament for repairing Turnpike Roads) on Account of Cattle going to and from Water or Pasture.

17 George III. c. 16.

'WHEREAS an exemption from toll has by several Acts for repairing turnpike roads been granted for cattle going to and from water and pasture: And whereas many disputes have arisen how far that exemption extended; and it is not reasonable that cattle going to and from water or pasture should be exempted from toll when they travel upon and make use of any turnpike road for any considerable length;' May it therefore please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That in all cases where any exemption from toll for cattle going to and from

water or pasture is or shall be given by any Act or Acts made or to be made for repairing any turnpike road, such exemption shall only extend to such cattle as shall be driven to and from water or pasture from one parish to the next adjoining parish, or to such cattle as shall not pass upon any such turnpike road more than for the space of two miles in going to or returning from water or pasture.

II. Provided always and be it enacted, That nothing in this Act contained shall exempt from the payment of toll any cattle going to and from water or pasture for which any person shall be liable to pay toll by any Act made or to be made for repairing any turnpike road.

Act not to exempt Cattle otherwise liable.

[No. VIII.] 18 George III. c. 28.—An Act for repealing so much of an Act, made in the Thirteenth Year of his present Majesty's Reign, intituled "An Act to explain, amend, and reduce into one Act of Parliament the general Laws now in being for regulating the Turnpike Roads in that Part of *Great Britain* called *England*, and for other Purposes;" as is to subject Carriages, having the Fellies of the Wheels thereof of less Breadth or Gauge than six Inches to the Payment of double Tolls; and for vacating Contracts for leasing Tolls.

18 George III. c. 28.

13 Geo. 3. c. 84.

'WHEREAS by an Act made in the thirteenth year of his present Majesty's reign, intituled "An Act to explain amend and reduce into one Act of Parliament the general Laws now in being for regulating the Turnpike Roads in that Part of *Great Britain* called *England*, and for other Purposes," it was enacted, That from and after the twenty-ninth day of *September* one thousand seven hundred and seventy-six a double toll should be paid for the passage through turnpike gates of all carriages having the fellies of the wheels thereof of less breadth or gauge than six inches from side to side; and for the horses or beasts of draught drawing the same: And whereas by an Act passed in the sixteenth year of the reign of his present Majesty the said double toll was suspended until the twenty-ninth day of *September* one thousand seven hundred and seventy-eight: And whereas great inconveniences will arise if the said provision be suffered to take place:' May it therefore please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That so much of the said Act made in the thirteenth year of his present Majesty's reign as enacted, That the trustees appointed by virtue or under the authority of any Act of Parliament made for repairing or amending turnpike roads, or such person or persons as they should authorise, should and might and were thereby required to demand and take for every waggon wain cart or carriage having the fellies of the wheels thereof of less breadth or gauge than six inches from side to side at the least at the bottom or sole thereof, and for the horses or beasts of draught drawing the same, from and after the twenty-ninth day of *September* one thousand seven hundred and seventy-six, double the tolls or duties which were or should be payable for the same respectively by any Act or Acts of Parliament made for amending or repairing turnpike roads before any such waggon wain cart or carriage respectively shall be permitted to pass through any turnpike gate or gates bar or bars where tolls should be payable by virtue of any such Acts; and which by an Act made in the sixteenth year of the reign of his present Majesty was suspended until the twenty-ninth day of *September* one thousand seven hundred and seventy-eight, shall be and the same is hereby declared to be repealed.

II. Provided always and be it further enacted by the authority aforesaid, That it shall and may be lawful for such trustees and they are

No. VIII.
18 Geo. III. c. 28.

hereby required to release all lessees of tolls within their respective jurisdictions from their respective contracts at *Michaelmas* next; provided forty days' notice shall have been given in writing by any such lessee or lessees to the treasurer or clerk of any such trustees respectively.

[No. IX.] 18 George III. c. 63.—An Act for enabling Trustees under particular Turnpike Acts to meet and carry such Acts into Execution, notwithstanding they may not have met or adjourned agreeable to the Directions of such Acts; and for preventing Disputes touching the Payment of Tolls for Horses or Carriages belonging to or employed by Officers or Soldiers on Duty.

18 Geo. III. c. 63.

'WHEREAS it has happened and may hereafter happen that the 'trustees appointed or to be appointed by Act of Parliament for 'amending or repairing particular turnpike roads have omitted or may 'omit to meet or adjourn in the manner directed by such Acts respec- 'tively, or that the day or days appointed for the first meeting of the 'trustees has or have elapsed or may elapse before the passing of such 'Acts respectively, whereby the intent of such respective Acts hath 'been or may be frustrated;' For remedy whereof, be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That in all cases where the trustees appointed or to be appointed by any Act or Acts of Parliament made or to be made for amending or repairing any particular turnpike roads shall not have met or shall not meet on the day or days appointed or to be appointed for their first meeting by any such Act or Acts respectively, or on any day or days appointed or to be appointed by adjournment for their meeting, or have not adjourned or shall not adjourn in the manner directed by any such Act or Acts of Parliament, or when the day appointed or to be appointed for the first meeting of the trustees has elapsed or may elapse before the passing of such Act or Acts; it shall and may be lawful for any five or more of the trustees appointed to execute such Act or Acts respectively in any or either of the cases aforesaid to cause notice under their hands to be affixed on all the turnpike gates which shall be then erected on such roads respectively; or if no turnpike gate shall be then erected to cause the like notice to be affixed in some conspicuous place in one of the market-towns near the roads directed to be repaired as aforesaid, and also to be published in some newspapers circulated in that part of the country at least twenty days before the intended meeting, appointing the trustees to meet at the place where the last preceding meeting was appointed to have been held, or at the place directed for the first meeting of such trustees, if no preceding meeting shall have been held; and the said trustees when met in pursuance of such notice shall and may and they are hereby empowered to carry such Act or Acts into execution in the same and as full and ample a manner to all intents and purposes as they might or could have done if no such neglect or omission had happened or such Act or Acts had been passed previous to the day or days appointed for the first meeting of the trustees respectively and such trustees had met on such day or days according to such appointment.

In case the Trustees under any Act for repairing Turnpike Roads shall neglect to meet on the Day appointed, &c.,

any Five Trustees may appoint a Meeting.

II. 'And whereas disputes have arisen with respect to the exemptions 'meant to be allowed by several Acts of Parliament for repairing of 'publick roads within this kingdom for the horses of officers and sol- 'diers upon their march or duty and for carriages attending them:' In order to prevent such disputes for the future, Be it enacted and declared by the authority aforesaid, That no toll or duty whatsoever shall be demanded or taken by virtue of any Act of Parliament already made or hereafter to be made for repairing any of the publick roads within this kingdom for or in respect of any horses belonging to officers or soldiers

Carriages and Cattle employed in carrying the Arms or Baggage of Officers or Soldiers on their March, &c. exempted from Tolls, &c.

upon their march or upon duty or for any horses cattle or carriages employed in carrying or conveying the arms or baggage of any such officers or soldiers, or in carrying any sick wounded or disabled officers or soldiers; and no carriages so employed shall be subject to be weighed at any engine erected or to be erected upon any turnpike road, or the owner or driver thereof liable to any penalty or forfeiture for carrying any greater weight than is or may be allowed by law to be conveyed in any such carriage; any Act of Parliament made or to be made to the contrary hereof notwithstanding.

No. IX. 18 Geo. III. c. 63.

[No. X.] 21 George III. c. 20.—An Act for declaring certain Provisions of an Act, made in the Thirteenth Year of his present Majesty, relating to the Turnpike Roads in that Part of *Great Britain* called *England* to extend to all Acts made, and to be made, for repairing Roads subsequent to the passing of the said Act.

'WHEREAS doubts have arisen whether the provisions contained in an Act of Parliament made in the thirteenth year of the reign of his present Majesty (intituled "An Act to explain amend and reduce into one Act of Parliament the general Laws now in being for regulating the Turnpike Roads in that part of *Great Britain* called *England*, and for other Purposes,") were meant and intended to extend to such Acts of Parliament as shall be made for repairing particular turnpike roads subsequent to the passing of the said recited Act: For obviating such doubts for the future,' Be it declared and enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That all the provisions directions matters and things contained in the said recited Act of the thirteenth year of the reign of his present Majesty, which have not been varied altered or repealed by any subsequent Acts of Parliament (except so much thereof as gives an additional term of five years to Acts for repairing particular turnpike roads,) were and are meant and intended and shall be deemed construed and taken to extend to all Acts of Parliament which have been made since the time of the passing of the said recited Act, and which shall hereafter be made for amending and repairing any particular turnpike roads within that part of *Great Britain* called *England*.

21 Geo. III. c. 20.
13 G. 3. c. 84.

[No. XI.] 25 George III. c. 57.—An Act to exempt Carriages, carrying the Mail, from paying Tolls at any Turnpike Gate in *Great Britain*.

'WHEREAS by several Acts of Parliament made for repairing particular roads in this kingdom carriages horses and other cattle employed in the conveyance of the mail or packet are exempt from the payment of the tolls directed to be levied by such Acts: And whereas by several other Acts of Parliament horses only that are employed in carrying the mail or packet are exempt from the payment of the said tolls: And whereas it may be of advantage to the publick that the mail or packet should be conveyed to different parts of the kingdom by carriages or publick diligences, which renders it expedient that all carriages as well as horses and other cattle conveying the mail or packet from one part of this kingdom to another should be exempt from the payment of tolls at all and every turnpike toll-gate or bar erected or set up by authority of Parliament;' Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and

25 Geo. III. c. 57.

No. XI.
25 Geo. III. c. 57.

after the fifteenth day of *July* one thousand seven hundred and eighty-five all carriages of what description soever or horses which shall be employed in conveying from one part of this kingdom to another the mail or packet which shall be made up under the authority or direction of his Majesty's Postmaster General or his deputy or deputies shall be and the same are hereby exempted freed and discharged from the payment of any tolls whatsoever that shall or may be demanded for the passage of carriages or horses through any turnpike toll-gate or bar at which any toll is collected by any Act or Acts of Parliament now in force; and all turnpike keepers or toll collectors are hereby directed and required to permit such carriages and horses to pass through all and every turnpike toll-gate or bar without demanding any toll or duty for so doing; any thing in any Act or Acts of Parliament contained to the contrary notwithstanding.

[No. XII.] 25 George III. c. 82.—An Act to indemnify such Persons as have omitted to qualify themselves for Offices * * * * * * * * * * * and for indemnifying Persons who have acted as Trustees of Turnpike Roads, in certain Cases, and declaring their Proceedings valid.

[No. XIII.] 34 George III. c. 64.—An Act for the more effectually repairing of such Parts of the Highways of this Kingdom as are to be repaired by Two Parishes.—[23*d May* 1794.]

34 Geo. III. c. 64.

'WHEREAS the common highways in this kingdom are to be maintained and kept in repair (except in certain cases) by the inhabitants of the several parishes in which such common highways are situated; but it frequently happens that the boundaries of such parishes pass through the middle of such common highways, and one side of such highways is situated in one parish and the other side of such highways is situated in another parish, whereby great inconveniences have often arisen to such parishes in settling the time and manner of repairing and amending the same, and great detriment has arisen thereby to the public from the want of the due repair of such highways:' For remedy thereof, Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That it shall and may be lawful for any two justices of the peace for any county riding or division upon complaint or application to them by any surveyor or any one of the surveyors of the highways of any parish (stating to such justices in writing and by a plan thereunto annexed that there is situated in the said parish and also in some other parish adjoining thereto specifying the same, a certain common highway particularly describing the same by metes bounds and admeasurement thereof, one side of which common highway ought to be made or repaired by one of such parishes and the other side thereof by the other of such parishes,) to issue their summons with a copy of such writing and plan thereunto annexed to the surveyor or one of the surveyors of the highways of such other parish, to appear before them on a day to be mentioned in such summons, not more than fourteen days nor less than seven days from the day of the date of such summons; and that in case the parties shall then appear before such justices they may then proceed finally to decide the matter in the manner hereinafter mentioned in case all the parties shall consent thereto; but in case the surveyor summoned shall not appear on such first summons or appearing shall require further time, the said justices shall adjourn the further consideration of the matter for any further time not more than twenty-one days nor less than fourteen days from

Two Justices may determine what Parts of Highways lying in two Parishes shall be repaired by each, &c.

the day of such adjournment, of which the surveyor not appearing shall have notice; on which day the said justices shall proceed to hear the parties and their witnesses, and whether the party summoned does or does not appear shall proceed to examine and finally determine the matter in form following: (that is to say) That it shall and may be lawful for such justices and they are hereby required to divide the whole of such common highway by a transverse line crossing such highway into two equal parts or into two such unequal parts and proportions as in consideration of the soil waters floods the inequality of such highway or any other circumstances attending the same, they in their discretion shall think just and right; and to declare adjudge and order that the whole of such highway on both sides thereof in one of such parts shall be maintained and repaired by one of such parishes, and that the whole of such highway on both sides thereof in the other of such parts shall be maintained and repaired by the other of such parishes; and shall cause such their order and a plan of such highway and the allotment thereof as before mentioned to be fairly delineated on paper or parchment and filed with the clerk of the peace of the county in which such highway shall happen to lie, and shall also cause such posts stones or other boundaries to be placed and set up in such highway as in their judgment shall be necessary for ascertaining the division and allotment aforesaid.

Parishes bound to repair the Parts so allotted.

II. And be it further enacted, That from and after such order and plan shall be so filed with the clerk of the peace as aforesaid such parishes and the inhabitants thereof respectively shall be bound as of common right to maintain and keep in repair such parts of such common highway so allotted to them as aforesaid, and shall be liable to be prosecuted and indicted for neglect of such duty and shall in all respects whatsoever be liable and subject to all the provisions regulations and penalties contained in any Act or Acts of Parliament for the repair of the highways which are or shall be in force, in like manner as they are liable and subject to with respect to the repair of any other common highway within such parishes respectively, and also shall be discharged from the repair of such parts of such highway as shall not be included in their respective allotments.

How Costs of Proceedings shall be defrayed, &c.

III. And be it further enacted, That all costs charges and expences to be incurred by reason of any of the proceedings before mentioned shall be borne and defrayed by such two parishes, the same being settled and ascertained by such two justices; and in case the said parties shall refuse or neglect to pay and discharge their respective share of such costs and expences, it shall and may be lawful for either of such justices or any other justice of the peace for the said county riding or division to levy the same by distress and sale, with the costs of such distress on the goods and chattels of any surveyor of the highways of the parish so refusing or neglecting to defray such costs and charges as aforesaid.

Boundary of Counties, &c. not to be changed, except for the Purpose aforesaid.

IV. And be it further enacted, That nothing in this Act contained shall extend or be construed to extend to affect change or alter in any manner whatsoever any boundaries of counties lordships hundreds manors or any other division of publick or private property, nor the boundaries of any parishes otherwise than for the purpose of amending and keeping in repair such particular portion of the highways in the manner hereinbefore mentioned.

Act not to relate to Highways repairable by Bodies Politic, &c. which may however on Consent be put under the Regulations of it;

V. And be it further enacted, That nothing herein contained shall relate or be construed to relate to any highways, the repair of any part of which belongs to any bodies politic or corporate township or other such place, or to any private person or persons by the reason of tenure of any lands or otherwise howsoever, but that the same shall be construed to relate to such highways the repair of which belongs to parishes only: Provided always, That in case any such body politic or corporate township or other such place or any such private person or persons as aforesaid, or any other person or persons who shall be bound by law to repair one side of any part of any common highway, shall be desirous that the same should be placed under the regulations of this Act, and that a division and allotment thereof should be made according to the provisions

No. XIII.
34 Geo. III. c. 64.

thereof, and the parties who are bound to the repair of the other side of the said highway shall consent thereto, it shall and may be lawful for such two justices to make an order for the division and allotment of such highway; and such order when filed with the clerk of the peace shall have the like force and effect to all intents and purposes whatsoever, as is herein directed with respect to the like order where parishes only are concerned.

nor to extend to Scotland.

VI. And be it further enacted, That this Act shall not be construed to extend to that part of *Great Britain* called *Scotland*.

Appeal may be made to the Quarter Sessions.

VII. And be it further enacted, That it shall and may be lawful for either of the two parishes between whom any such allotment of any highway shall be made by virtue of this Act, by an order in vestry specially called for the purpose to appeal to the quarter sessions of the peace for the county where such parishes shall lie, to be holden next after the time when such order and plan shall be filed with the clerk of the peace as aforesaid, and not otherwise; and that upon the hearing of such appeal, the justices at such quarter sessions shall make such order as shall appear to them to be just, either by affirming quashing or amending the order of the two justices, and shall allow costs to either party as in their discretion they shall think right; which order of the quarter sessions shall not be removed by writ of *certiorari* or otherwise, but shall be final to all intents and purposes whatsoever.

Complaints, &c. may be made in the annexed Forms.

VIII. And be it further enacted, That such complaint summons adjudication and plan may be in the several forms stated in the Appendix hereunto annexed, or as near thereto as the circumstances and nature of each particular case may admit.

Appendix.—Information.

County of } AT a Petty Session, holden before *J. P.* and *K. P.* two of his Majesty's Justices of the Peace for the said county, this day of *J. S.* one of the Surveyors of the Highways of the parish of *A.* came before the justices aforesaid, and gave them to be informed, That there is in the said county a certain common highway leading from *M.* to *N.*; and that there is a certain part of the said highway, that is to say, so much thereof as lies between a certain place called *C.* and a certain other place called *D.*, being in length [*as the case may be*] one side of which last-mentioned part of the said highway adjoining to the parish of *A.* lies within the said parish of *A.*, and is to be and of right ought to be repaired by the said parish of *A.*; and that the other side of the same part of the said highway adjoining to the parish of *B.* lies within the parish of *B.*, and is to be and of right ought to be repaired by the said parish of *B.*; and stating that the repair of such part of the said highway is very inconvenient to the parishes aforesaid, and the want thereof detrimental to the publick: And therefore praying, That such part of the said highway may be allotted and apportioned for the repair thereof by the justices aforesaid to the said several parishes of *A.* and *B.*, in the manner directed by an Act passed in the thirty-fourth year of the reign of King *George* the Third, intituled *An Act*, &c.

(Signed) *J. S.*
One of the Surveyors of the Highways for the Parish of *A.*

The above application was made to us the day and year first above written.
J. P.
K. P.

Summons, to be subjoined to a Copy of the above Information.

County of } TO the Surveyors of the Highways of the parish of *B.* in the said county, any or either of them.

Whereas a certain information has been given to us *J. P.* and *K. P.* two of his Majesty's Justices of the Peace for the said county, by *J. S.* one of the Surveyors of the Highways of the parish of *A.* in the said

No. XIII.
34 Geo. III. c. 64.

county, a true copy whereof is above written; these are, in his Majesty's name, to summon you any or either of you to appear before us at in the said county, on the day of at to shew cause (if any) why an allotment and apportionment of the highway therein mentioned should not be made, according to the provisions of the Act referred to in the said information. Hereof fail not.

Given under our hands, this day of

J. P.
K. P.

Final Order and Adjudication, to be filed with the Clerk of the Peace.

WHEREAS, &c.

1. *State the original application.*
2. *The Summons.*
3. *The appearance; and that the parties were heard, or their non-appearance.*

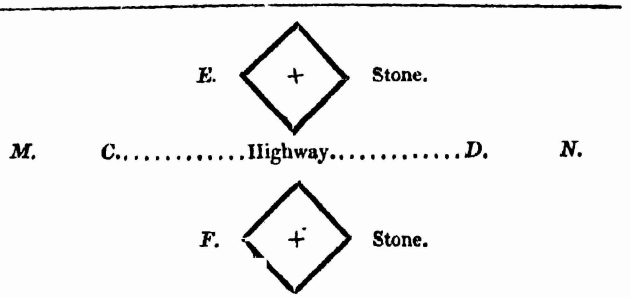
Now we, the Justices aforesaid, having fully heard and understood the premises do declare adjudge and order, That the said highway shall be divided in the following manner; (that is to say,) That at the distance of measuring from the place called *C.* there shall be erected certain posts or stones, *E.* and *F.* on each side of the said highway; and the whole of the said highway, from the place called *C.* to such posts or stones, shall be from time to time and at all times hereafter repaired by the parish of *A.*; and the whole of the said highway from such posts or stones to the place called *D.* shall from time to time and at all times hereafter be repaired by the parish of *B.*

In witness whereof we have hereunto set our hands and seals this day of

J. P. (L. S.)
K. P. (L. S.)

PLAN.

Parish of *A.* Bound to repair on this side to the dotted line.



Parish of *B.* Bound to repair on this side to the dotted line.

[No. XIV.] 34 George III. c. 74.—An Act for varying some of the Provisions in an Act of the Thirteenth Year of his present Majesty's Reign, respecting the Public Highways, within that Part of *Great Britain* called *England*, which relate to the Performance of Statute Duty.—[11*th June* 1794.]

34 Geo. III. c. 74.
13 G. 3. c. 78. in part recited.

'WHEREAS by an Act made in the thirteenth year of his present Majesty's reign, intituled "An Act to explain amend and reduce into one Act of Parliament the Statutes now in being for the Amend-

No. XIV.
54 Geo. III. c. 74.

'ment and Preservation of the Publick Highways within that Part of 'Great Britain called *England*, and for other Purposes," provisions and 'regulations are by a certain clause made and directed to be observed 'with respect to the duty required from persons not keeping teams 'draughts or ploughs, but keeping one or two horses used to draw any 'cart or carts, and also with respect to the sums to be paid by persons 'keeping coaches or other wheeled carriages, and likewise respecting the 'personal labour required from certain inhabitants of any parish town-'ship or place: And whereas by another clause in the said Act, persons 'liable to perform statute duty are empowered to compound for the same 'if he she or they shall think fit by paying to the surveyor certain sums of 'money as the justices at a special sessions shall adjudge and declare to 'be reasonable, not exceeding the sums therein mentioned: And whereas 'by one other clause in the said Act, the surveyor together with the in-'habitants and occupiers of lands tenements woods tithes and hereditaments within each parish township or place are directed at proper sea-'sons in every year to use their endeavours for the repair of the highways 'and to be chargeable thereunto in the manner therein particularly men-'tioned; and the said clause also directs how the contributions in mo-'ney are to be paid and recovered: And whereas by one other clause in 'the said Act the justices at their special sessions are empowered to di-'rect the performance of team duty or labour in kind in any particular 'parish township or place within their respective limits where they find 'high and extravagant prices are required, occasioned by the difficulty 'in procuring necessary carriages or a sufficient number of labourers for 'the repair of the highways and directing the proportions and manner in 'which such team duty or labour in kind shall be performed: And 'whereas it is expedient that certain poor persons mentioned in the said 'clauses some or one of them should be exempted from performing any 'personal labour and from paying any composition in lieu thereof in the 'repair of the highways; and it will be convenient that such clauses in 'the said Act, parts of which are herein-before recited, should be repealed 'and other provisions be substituted in the place thereof, and that the 'said Act should in other respects be explained and amended:' Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the twenty-ninth day of *September* one thousand seven hundred ninety-four so much of the said Act of the thirteenth year of his present Majesty's reign as contains the before-recited clauses shall be and is hereby repealed.

and from Sept. 29, 1794, recited Part repealed.

II. And be it further enacted, That from and after the said twenty-ninth day of *September* every person who shall not keep a team draught or plough but shall keep one or more cart or carts and one or two horses or beasts of draught only used to draw in each of such carts upon the highways shall be obliged to perform his statute duty for the like number of days with such cart or carts and horse or horses or beasts of draught and one labourer to attend each cart, or to pay for the lands tenements woods tithes and hereditaments which he shall occupy according to the rate hereinafter mentioned at the option of the surveyor; and every person who shall keep a coach post-chaise chair or other wheel-carriage and not keep a team draught or plough nor occupy lands tenements woods tithes or hereditaments of the annual value of fifty pounds in the parish township or place where he shall reside shall pay to the surveyor one shilling in respect of every such day's statute duty for every horse which he shall draw in every such carriage, or shall pay according to the value of the lands tenements or hereditaments which he shall occupy according to the rate hereinafter mentioned at the option of the surveyor: and if the said teams draughts or ploughs or any of them shall not be thought needful by the surveyor on any of the said days, then every such person who should have sent any such team draught or plough according to the directions aforesaid shall according to the notice to be given as hereinafter directed send unto the said work for every one

Persons keeping Carts and Horses only used to draw in them, to perform Statute-duty; and Persons keeping a Coach, &c. to pay 1s. for each Horse for each Day's Statute-duty; or pay as hereinafter mentioned.

Three Men to be sent in lieu of a Team, if required, or or to pay in lieu thereof.

so spared three able men there to labour as aforesaid, or to pay to the said surveyor the sum of four shillings and six pence in lieu thereof at the option of the surveyor; and all such persons as aforesaid shall respectively have and bring with them such shovels spades picks mattocks and other tools and instruments as are useful and proper for the purposes aforesaid; and all the said persons and carriages shall diligently perform the work and labour to which they shall be appointed by such surveyor for eight hours in every of the said days within such parish township or place, or in getting and carrying materials in and from any other parish township or place to be employed in the repair of the highways of the parish township or place for which they shall be required to perform such duty and labour as aforesaid; and if any person sending a team as aforesaid shall not send a sufficient labourer besides the driver (except as before mentioned), or if any such labourer or driver or the driver of any cart required to perform statute duty as aforesaid shall refuse to work and labour during the time above mentioned according to the direction of the surveyor, or if any driver shall refuse to carry proper and sufficient loads, it shall and may be lawful for such surveyor to discharge every such team cart or labourer and to recover from the owner of every such team or cart the forfeiture which every such person or persons would have incurred by virtue of the said Act in case no such team cart or labourer respectively had been sent.

Tools to be bought.

Time of working.

If sufficient Persons be not sent, or if they are idle, the Owner of Team, &c. liable to Penalty.

III. Provided always and be it further enacted, That any person or persons liable to perform the said duty by sending one or more team or teams draught or draughts plough or ploughs with men horses or oxen in manner aforesaid shall and may compound for the same if he she or they shall think fit, by paying to the said surveyor at the time and in the manner as in the said recited Act is mentioned such sum or sums of money as the justices of the peace for the limits wherein such parish township or place shall be or the major part of them at their special sessions to be held in the first week after *Michaelmas* quarter sessions in every year shall adjudge and declare to be reasonable, not exceeding six shillings nor less than three shillings for each team draught or plough for each day; and in default of their adjudging and declaring the same the sum of four shillings and sixpence for and in lieu of every such day's duty for each team draught or plough; and for every cart and one horse or beast of draught two shillings; and for every cart with two horses or beasts of draught three shillings for and in lieu of every day's duty.

Composition may be made for Teams, &c.

IV. And be it further enacted, That the said surveyor to be appointed by the said Act, together with the inhabitants and occupiers of lands tenements woods tithes and hereditaments within each parish township or place, shall at proper seasons in every year use their endeavours for the repair of the highways and shall be chargeable thereunto as followeth; (that is to say), every person keeping a waggon cart wain plough or tumbrel and three or more horses or beasts of draught used to draw the same shall be deemed to keep a team draught or plough and be liable to perform statute duty with the same in the parish township or place where he resides, and shall six days in every year (if so many days shall be found necessary) to be computed from *Michaelmas* to *Michaelmas* send on every day and at every place to be appointed by the surveyor for the amending the highways in such parish township or place one wain cart or carriage furnished after the custom of the country with oxen horses or other cattle and all other necessaries fit to carry things for that purpose, and also two able men with such wain cart or carriage; which duty so performed shall excuse every such person from his duty in such parish township or place in respect of all lands tenements woods tithes or hereditaments not exceeding the annual value of fifty pounds which he shall occupy therein; and every person keeping such team draught or plough and occupying in the same parish township or place lands tenements woods tithes or hereditaments of the yearly value of fifty pounds over and beyond the said yearly value of fifty pounds in respect whereof such team duty shall be performed; and every such person occupying lands tenements woods tithes or hereditaments of the yearly value of fifty

Proportions of Statute Labour.

No. XIV.
34 Geo. III. c. 74.

pounds in any other parish township or place besides that wherein he resides; and every other person not keeping a team draught or plough, but occupying lands tenements woods tithes or hereditaments of the yearly value of fifty pounds in any parish township or place shall in like manner respectively and for the same number of days find and send one wain cart or carriage furnished with not less than three horses or four oxen and one horse or two oxen and two horses and two able men to each wain cart or carriage, and in like manner for every fifty pounds *per annum* respectively which every such person shall further occupy in any such parish township or place respectively; such wains carts or carriages to be employed by the surveyor in the repairing and amending the highways within the parish township or place where such lands tenements woods tithes or hereditaments shall respectively lie; and every person who shall not keep a team draught or plough, but shall occupy lands tenements woods tithes or hereditaments under the yearly value of fifty pounds in the parish township or place where he resides, or in any other parish township or place; and every person keeping a team draught or plough and occupying lands tenements woods tithes or hereditaments under the yearly value of fifty pounds in any other parish township or place than that wherein he resides shall respectively contribute to the repair of the highways and pay to the surveyor of such parish township or place respectively, in lieu of such duty, the sums following; *videlicet*, for every twenty shillings of the annual value of such lands tenements woods tithes or hereditaments respectively the sum of one penny for every day's statute duty, which shall be required and called for by the surveyor of such parish township or place respectively in every year, not exceeding six days' duty in the whole as aforesaid; and every such person respectively shall in like manner pay the sum of one penny for every twenty shillings of the annual value of the lands tenements woods tithes and hereditaments which he shall occupy in any such parish township or place respectively above the annual value of fifty pounds and less than one hundred pounds, and so for every twenty shillings that each progressive and intermediate annual value of twenty shillings of the lands tenements woods tithes and hereditaments which he shall so occupy shall fall short of the further increase of fifty pounds in every parish township or place where such lands tenements woods tithes and hereditaments shall respectively lie, for every day's statute duty so to be required as aforesaid; Provided, That no person keeping such team draught or plough and performing duty with the same as aforesaid in the parish township or place where he resides, and not occupying lands tenements woods tithes or hereditaments within the same of the yearly value of thirty pounds, shall be obliged to send more than one labourer with such team draught or plough: which said several sums shall be considered as compositions and shall be paid to the surveyor of the parish township or place in which they are charged for the use of the highways therein, at the time such compositions are to be paid under the authority of the said Act or within ten days after; or in default of such payments the said surveyor shall make application to a justice of the peace acting for the limit or district wherein such default shall be made, and the justice to whom such application shall be made shall summon the party so making default to appear at some special or other petty sessions to be holden for such limit or district, and at which two justices at the least shall be present, to shew cause why he has refused or neglected to pay such composition money; and in default of appearance or if on appearance he shall not make it appear to the satisfaction of the said justices that he is poor and indigent and as such is an object deserving relief, such money shall be levied by distress and sale of the goods and chattels of the person or persons refusing or neglecting to pay the same in such manner as the forfeitures for the neglect in performing the statute duty are hereby authorised to be levied and raised: Provided always, That when on application as above-mentioned the justices shall think proper to discharge any poor and indigent person from payment of the rate or composition money, such person shall at the same

Money to be paid in lieu of Statute-duty by certain Persons.

Sums to be paid.

Persons keeping Teams, &c. and performing Duty in the Place of Residence, and not occupying Premises of the Yearly Value of 30*l.* not liable to send more than one Labourer.

Sums to be deemed Compositions, and paid to the Surveyor, &c.

Justices to summon Defaulters, &c.

Poor Persons discharged from Payment of the Rate to be discharged from Expences.

time be discharged from any expences which may arise in consequence of such summons and appearance.

V. 'And whereas it may frequently happen that persons wholly gaining their livelihood by the wages of daily labour and occupying rateable tenements within a parish township or place, by reason of age sickness a numerous family or misfortune may be in poor and indigent circumstances, and it may be expedient in certain cases to discharge such poor and indigent persons from all rates assessments or composition whatsoever imposed by authority of the above-recited Act;' Be it further enacted, That on the application of any poor and indigent person to be discharged from the payment of the rate or composition made to any two justices of the peace at any special or petty sessions held for the limits wherein such poor and indigent person shall reside, the said justices (having first given notice to the surveyor of the highways to appear on the part of the parish township or place in which such poor person shall reside) shall inquire and examine into the situation and circumstances of the person making such application; and if it shall appear to the satisfaction of such justices that such person is really poor and indigent and a deserving object of such relief, the said justices may and they are hereby empowered to exempt such poor and indigent person from the payment of all rates assessments or composition whatsoever imposed by the said recited Act.

Justices may exempt poor Persons from Payment of the Rates.

VI. Provided always and be it further enacted, That if it shall appear to the justices at their special sessions to be held in the week next after *Michaelmas* quarter sessions, or at any other special or petty sessions held within the limits of any parish township or place at which two or more justices shall be present, that from the directions herein-before given for the performing and compounding the statute duty there will be difficulty in procuring the necessary carriage or a sufficient number of labourers for the repair of the highways in any particular parish township or place within their respective limits without paying high and extravagant prices for the same, it shall and may be lawful for such justices to order and direct the team duty or so much thereof as they shall think fit to be performed in kind within every such parish township or place, except in respect of such teams as belong to persons who do not occupy lands tenements woods tithes or hereditaments of the annual value of thirty pounds within the same, and also to order all such persons as shall gain their living by the wages of daily labour or such part as they shall think fit to perform six days labour upon such highways in kind, either by themselves or other sufficient labourers in case so many days duty shall be required, upon being paid for such labour the usual and customary wages given to labourers in such parish township or place; provided that if part of such teams or labourers only are required it shall be directed by the said order of the justices in some given proportion as one half third or fourth part thereof; and the surveyor shall in that case at a publick vestry for such parish township or place put the names of all the persons liable by this Act to send such teams into one hat or box and the names of all the persons liable to perform such labour into another hat or box, and some inhabitant then present shall draw out such number from each as shall be equal to the proportion so ordered by the said justices, and the persons so drawn shall perform such duty in kind for that year; and that if any such order shall be made or continued in the subsequent year the same method shall be observed, but the names drawn in the preceding year shall not be put into such hat or box; and in every succeeding year such method and regulation shall be observed by such surveyor as to render the duty so required to be performed in kind as equal amongst the several persons liable thereto as may be; which order of the said justices so far as the same shall be extended shall supersede the said power or liberty of compounding, and shall be binding and effectual to all intents and purposes whatsoever, and shall continue in force until it shall be discharged or varied by the justices at some subsequent special sessions for the highways within such limit to be held in the week next after *Michaelmas*

Justices may direct Team Duty to be performed in Kind.

Exception.

Labourers may be ordered to do Statute Duty on Payment of the usual Wages.

Persons to perform Duty in Kind to be drawn by Lot.

No. XIV. 34 Geo. III. c. 74.

quarter sessions; any thing herein contained to the contrary thereof in anywise notwithstanding.

Recited Act of 13 George III. except hereby altered, to continue in force.

VII. And be it further enacted, That all the clauses powers and provisions contained in the said Act of the thirteenth year of his present Majesty's reign (except such as are hereby repealed or altered) shall continue in force in the same manner as if the same were repeated and re-enacted in the body of this present Act (9.); any thing herein contained to the contrary thereof in anywise notwithstanding.

(9.) That branch of § 19. of Stat. 13 Geo. 3. c. 78. (the General Highway Act) which directs that "when any Highway hath been diverted above 12 months, &c. if a new Highway hath been made in lieu thereof, and the same hath been acquiesced in, &c. every such new Highway shall, from henceforth, be public highway," is retrospective only: and it is not extended by § 7. of 34 Geo. 3. c. 74. incorporating all the Clauses and Provisions of the Act 13 Geo. 3. Waite v. Smith, 8 T. R. 133.

[No. XV.] 44 George III. c. 52.—An Act to alter and amend so much of an Act, passed in the Thirty-fourth Year of his present Majesty, as relates to the Amount of the Sums to be paid by Persons compounding for the Performance of Statute Duty.—[16*th May* 1804.]

44 George III. c. 52.

34 Geo. 3. c. 74. § 3, 4. respecting the Highways in England.

WHEREAS by an Act passed in the thirty-fourth year of his present Majesty's reign, intituled, "An Act for varying some of the Provisions in an Act of the Thirteenth Year of his present Majesty's Reign, respecting the Publick Highways within that part of *Great Britain* called *England* which relate to the performance of Statute Duty," it is amongst other things enacted, That any person or persons liable to perform statute duty may compound for the same by paying to the surveyor of the highways such certain sums of money as the justices at a special session of the peace shall adjudge and declare to be reasonable, not exceeding the sums therein mentioned: And whereas it is expedient that the sums so to be paid by persons desirous of compounding for statute duty should be increased in the proportions herein-after mentioned;' Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act, so much of the said Act of the thirty-fourth year of his present Majesty's reign as relates to the amount of the sums to be paid by persons desirous of compounding for the performance of statute duty shall be and the same is hereby repealed.

So much of recited Act as relates to the Amount of Composition for Statute-duty repealed.

How Composition for Statute-duty shall in future be ascertained and paid, and to what Amount.

II. And be it further enacted, That from and after the passing of this Act any person or persons liable to perform statute duty by sending one or more team or team or teams draught or draughts plough or ploughs, with men horses or oxen in manner in the said recited Act of the thirty-fourth year of his present Majesty's reign mentioned, shall and may compound for the same, if he she or they shall think fit by paying to the surveyor of the highways at the time and in the manner in the said Act of the thirteenth year of his present Majesty's reign mentioned, such sum or sums of money as the justices of the peace for the limits wherein the parish township or place for which the said duty is liable to be performed is situate, or the major part of them at their special session to be held in the first week after *Michaelmas* quarter session in every year, shall adjudge and declare to be reasonable, not exceeding twelve shillings nor less than three shillings for each team draught or plough for each day; and in default of their adjudging and declaring the same the sum of six shillings for and in lieu of every day's duty for each team draught or plough; and for each cart with two horses or beasts of draught not exceeding eight shillings nor less than three shillings; and in default of

their adjudging and declaring the same the sum of four shillings; and for each cart with one horse or beast of draught not exceeding six shillings nor less than two shillings, and in default of their adjudging and declaring the same the sum of three shillings.

No. XV.
44 Geo. III. c. 52.

[No. XVI.] 52 George III. c. 145.—An Act to explain the Exemption from Toll in several Acts of Parliament, for Carriages employed in Husbandry; and for regulating the Tolls to be paid on other Carriages, and on Horses, in certain other Cases therein specified.—[23*d July* 1812.]

52 George III. c. 145.

'WHEREAS an exemption from toll has by several Acts for repairing turnpike roads been granted in respect of cattle or carriages carrying or drawing any dung manure or compost for manuring the land or fodder for cattle. And whereas in some of the said Acts there is no express provision made for any exemption from the payment of toll for and in respect of any carriage or the cattle drawing the same, going empty for such lading or returning empty having been so laden, and by reason of such omission toll has in some cases been lately demanded and received in respect of carriages going empty for such lading; and in other cases disputes have arisen concerning the same: And whereas the excluding from such exemption the case of carriages going empty for such lading or returning empty having been so laden must operate to the discouragement of agriculture and check the due improvement of land, and in many cases defeat the benefit intended by the exemption from tolls of carriages carrying dung manure or compost or fodder for cattle And whereas by a clause in an Act passed in the thirteenth year of his present Majesty's reign, intituled, "An Act to explain amend and reduce into one Act of Parliament the general Laws now in being for regulating the Turnpike Roads in that part of *Great Britain* called *England*, and for other Purposes," it is enacted, that the regulations of weight therein-before mentioned should not be deemed or construed to extend to any waggons carts or other carriages employed only in husbandry, or carrying only manure for land hay straw fodder or corn unthreshed And whereas great inconvenience will result to persons employed in husbandry if the said exemption in respect of waggons carts or other carriages laden with manure and the cattle drawing the same should be prevented from taking place by reason only of any empty basket or baskets empty sack or sacks being in or upon any such waggon cart or carriage if the loading thereof is substantially manure hay straw fodder or corn unthreshed. And whereas great uncertainty has prevailed as to the tolls claimed on carriages or horses liable to separate tolls when affixed tied or secured to some waggon cart or other carriage, and much inconvenience has arisen therefrom;' May it therefore please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the twenty-ninth day of *September* in the year of our Lord one thousand eight hundred and twelve, in every case in which under any Act of Parliament for making widening and enlarging repairing or otherwise relating to any turnpike road, there is an exemption from toll or duty in respect of any horse mule ass oxen waggon cart or other carriage carrying or drawing any dung mould soil marl lime or compost of any nature or kind soever for manuring or improving the land, or hay straw or any other fodder for cattle, such exemption shall be deemed to extend in respect of every such waggon cart or other carriage, and also in respect to the cattle drawing the same, going empty or loaded only with implements necessary for more convenient carriage or loading or unloading such lading or returning empty or with such implements as aforesaid

13 Geo. 3. c. 84. § 6.

Exemption from Toll extended in certain Cases, where not specifically exempted by former Acts.

No. XVI.
52 Geo. III. c. 145.

having been so laden, notwithstanding the said waggon cart or other carriage shall for the purposes aforesaid go to or return from any parish or place in which the said turnpike road does not lie.

Tolls on empty Carriages to be first paid, and afterwards returned.

II. Provided also and be it further enacted, That for the preventing of frauds on toll collectors by carts or waggons passing empty, or loaded only with implements necessary for the more convenient carriage of, or for loading or unloading manure through turnpike gates under pretence of going for such manure, the owner or driver of every empty waggon cart or carriage claiming the exemptions hereby extended, any or either of them, shall in all cases pay the toll in respect of such waggon cart or carriage before the same shall be permitted to pass through such turnpike gate, and that the collector of such toll shall thereupon deliver to such owner or driver a ticket to be marked 'Manure Exemption,' with the name of the gate and the date when delivered and the amount of the toll so paid; all which sum and sums so paid shall be repaid to the owner or driver of such waggon cart or other carriage, upon his or their returning on the same day with such waggon cart or other carriage so laden as aforesaid, and producing such ticket; and every collector of such toll refusing or neglecting to return the same upon the return of such waggon cart or other carriage and production of such ticket as aforesaid, shall for every such offence forfeit and pay to the owner of such waggon cart or other carriage a penalty of not less than ten shillings or more than forty shillings, upon conviction thereof before one or more justice or justices of the peace for the county shire or place where such offence shall be committed, upon the oath of one or more credible witness or witnesses (which oath the said justice or justices is and are hereby empowered to administer; and if the same shall not be paid upon such conviction, to commit the person or persons so offending to the common gaol or house of correction for the said county shire or place for any time not exceeding one month.

Penalty.

Imprisonment.

III. Provided also and be it enacted, That if any person shall think himself or herself aggrieved by any thing done by any justice or justices of the peace in pursuance of this Act, then and in such case such person may appeal to the justices of the peace to be held for the limits wherein the cause of such complaint shall arise, such appellant giving such notice and entering into such or the like recognisance as by the said recited Act passed in the thirteenth year of the reign of his present Majesty is in that case directed, and thereupon such proceedings shall be had and taken as in the said recited Act are directed in respect of appeals under the authority of that Act, in such and the same manner as if such powers and regulations were herein repeated and re-enacted.

13 Geo. 3. c. 84. § 82.

Trustees to release Lessees of Tolls from Contracts at Michaelmas next.

IV. 'And whereas many persons may at the time of the passing of 'this Act be farmers or contractors for the tolls arising or payable on 'turnpike roads, and whose contracts will not expire until after the 'twenty-ninth day of *September* next;' For remedy whereof and for protection of such lessees or contractors, Be it further enacted, That in case any lessee or lessees farmer or farmers contractor or contractors for any tolls payable to any trustees or commissioners appointed by virtue of any Act of Parliament for making repairing or amending turnpike roads whose contract will not expire until after *Michaelmas* next, shall by reason of this Act be desirous of being discharged from his her or their contract or contracts and of such his her or their desire, shall within fourteen days from the passing of this Act give notice in writing to the treasurer or clerk of any such trustees forty days at the least before the said twenty-ninth day of *September* next, then and in every such case all such farmers lessees or contractors shall from and after the twenty-ninth day of *September* next be released and discharged from their respective contracts, and all and every such contracts shall from and after the said twenty-ninth day of *September* next cease and be null and void as to the residue of the term or time for which such tolls are or were farmed or taken or contracted or agreed to be farmed or taken; any thing in such leases and agreements to the contrary notwithstanding.

No. XVI. 52 Geo. III. c. 145.

V. Provided also and be it enacted, That in case any such lessee or lessees farmer or farmers contractor or contractors for tolls shall give such notice of determining his her or their contract as herein-before mentioned, then and in every such case it shall be lawful for such trustees or commissioners if they think fit forthwith to cause the said tolls to be re-let on a day and at a place to be by them appointed, of which one month's notice at least shall be given as by the said recited Act of the thirteenth year of the reign of his present Majesty is directed, and thereupon to proceed to re-let the same, and to re-let the same for the best price they may then be enabled to obtain for the same, without being compelled to put up the said tolls at the sum at which they were last let or to have any other meeting for the letting thereof; any thing in the said recited Act to the contrary notwithstanding.

Lessees, &c. of Tolls wishing to determine Contracts, Trustees, &c. to re-let Tolls.

VI. And be it further enacted, That the regulations of weight in the before-mentioned Act of the thirteenth year of the reign of his present Majesty shall not be deemed or construed to extend to any waggon cart or other carriage laden with manure for land passing through any turnpike gate, so as to subject the owner or driver thereof to the payment of toll in respect of over-weight by reason of any empty basket or baskets empty sack or sacks or tubs for more convenient carriage, or spade shovel or fork necessary for loading or unloading such manure, being in or upon any such waggon cart or carriage in addition to such manure, if the loading thereof is substantially manure for land as aforesaid; provided that the fellies of the wheels of such carriages waggons carts or other carriages are of the breadth or gauge of six inches or more, and that such waggon together with the loading thereof shall not exceed three tons in the summer and two tons ten hundred weight in the winter; and to every cart having the fellies of the wheels of less breadth than six inches, two tons in winter and two tons ten hundred weight in summer; and that it shall be deemed summer from the first day of *May* to the thirty-first day of *October* both days inclusive, and winter from the first day of *November* until the thirtieth day of *April* both days inclusive; any thing in the said Act of the thirteenth year of his present Majesty or any other Act contained to the contrary thereof notwithstanding.

Regulations of Weight in 13 Geo. 3. c. 84. not to extend to Manure Waggons, &c. by reason of having empty Baskets, Sacks, &c.

VII. 'And whereas coaches chariots chaises chairs carts and other 'carriages sometimes pass through turnpike-gates affixed tied or secured 'to waggons or carts; and horses are sometimes sent under the charge 'of the drivers of such waggons and carts and are fastened thereto, and 'it is expedient to determine what tolls such coaches chariots chaises 'chairs carts and other carriages and horses ought to pay on passing 'through such gates;' Be it therefore enacted, That where any coach chariot chaise or any other carriage whatsoever with four wheels shall pass through any turnpike gate affixed tied or secured to any waggon or cart, it shall be liable to the same toll and no more as if it had passed through the said turnpike gate drawn by two horses; and in case any chair cart or other carriage whatsoever with two wheels only shall pass through any turnpike gate so affixed tied or secured to any waggon or cart as aforesaid, it shall be liable to the same toll and no more as the same would have been if passing through the said gate drawn by one horse only; and where any horse shall be fastened to but not used in drawing any waggon cart or other carriage, such horse shall not be liable to a higher toll than a single horse; provided that if any coach chariot chaise chair cart or other carriage so affixed tied or secured to any waggon or cart shall have any goods conveyed therein other than the harness thereof and such articles of package as may be necessary for the protection of such carriages, the same shall be liable to double the toll hereby imposed.

Regulation as to Payment of Toll when Coaches, &c. affixed to Waggons, &c. or Saddle Horses sent by Drivers of Waggons.

VIII. And be it further enacted, That this Act shall be deemed and taken to be a public Act, and shall be judicially taken notice of as such by all judges justices and others without being specially pleaded.

Publick Act.

[No. XVII.] 53 Geo. III. c. 82.—An Act to amend an Act made in the Fifty-second Year of his present Ma-

No. XVII.
53 Geo. III. c. 82.

jesty's Reign, intituled "An Act to explain the Exemption from Toll in several Acts of Parliament for Carriages employed in Husbandry; and for regulating the Tolls to be paid on other Carriages, and on Horses, in certain other cases therein specified; and for other Purposes relating thereto."—[2*d July* 1813.]

53 George III. c. 82.
13 Geo. 3. c. 84. § 6.

'WHEREAS by a clause in an Act of Parliament made in the thirteenth year of his present Majesty's reign, intituled "An Act to explain amend and reduce into one Act of Parliament the general Laws now in being for regulating the Turnpike Roads in that part of *Great Britain* called *England*, and for other Purposes," it is enacted, that the regulations of weight thereinbefore mentioned should not be deemed or construed to extend to any waggon cart or other carriage employed only in husbandry or carrying only manure for land hay straw fodder or corn unthreshed: And whereas by a clause in an Act of Parliament made in the fifty-second year of his present Majesty's reign, intituled "An Act to explain the Exemption from Toll in several Acts of Parliament for Carriages employed in Husbandry; and for regulating the Tolls to be paid on other Carriages and on horses in certain other cases therein specified," it is enacted, that the regulations of weight in the before-mentioned Act of the thirteenth year of the reign of his present Majesty shall not be deemed or construed to extend to any waggon cart or other carriage laden with manure for land passing through any turnpike gate so as to subject the owner or driver thereof to the payment of toll in respect of overweight by reason of any empty basket or baskets empty sack or sacks for more convenient carriage, or spade shovel or fork necessary for loading and unloading such manure, being in and upon any such waggon cart or carriage in addition to such manure, if the loading thereof is substantially manure for land as aforesaid; provided that the fellies of the wheels of such carriages waggons carts or other carriages are of the breadth or gauge of six inches or more, and that such waggon together with the loading thereof shall not exceed three tons in the summer and two tons ten hundred weight in the winter; and to every cart having the fellies of the wheels of less breadth than six inches two tons in winter and two tons ten hundred weight in summer: And whereas the said proviso in the said last-mentioned clause in the said Act of the fifty-second year of his Majesty's reign is by experience found to be inconvenient and to operate to the discouragement of husbandry:' May it therefore please your Majesty that it it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this Parliament assembled, and by the authority of the same, That so much of the said last-mentioned clause as relates to the breadth of the fellies of the wheels of such waggons carts or other carriages and the weight of such waggons and carts together with the respective loading thereof shall be and from henceforth shall stand absolutely repealed, and is hereby repealed.

52 Geo. 3. c. 145. § 6.

52 Geo. 3. c. 145. § 6. Repealed.

Toll not demandable for Carriage, or Cattle, on account of empty Baskets, &c.

II. And be it further enacted, That from and after the passing of this Act the owner or driver of any waggon cart or other carriage laden with manure for land passing through any turnpike gate or otherwise passing on or across any turnpike road shall not be liable to pay any toll nor shall any toll be demanded for such carriage so laden or the cattle drawing the same by reason only of any empty basket or baskets empty sack or sacks for more convenient carriage, or spade shovel or fork necessary for loading or unloading such manure being in or upon any such waggon cart or other carriage in addition to such manure, if the loading thereof is substantially manure for land as aforesaid; any thing in any Act contained to the contrary thereof notwithstanding.

52 Geo. 3. c. 145. § 1.

III. 'And whereas by another clause in the said Act of the fifty-second year of his present Majesty's reign the exemption from toll in respect of cattle or carriages going empty or returning empty, having

'been laden with any dung mould soil marle lime or compost of any 'nature or kind soever for manuring or improving land, or hay straw or 'any fodder for cattle, is restricted to such cattle or carriages going empty 'or returning so laden on the same day: And whereas by several parti-'cular or local Acts for making or repairing turnpike roads the exemption 'from toll for and in respect of cattle and carriages going empty and 'returning so laden has been granted without such restriction;' Be it there-fore enacted, That so much of the said clause as limits the exemption from toll granted by such several particular or local Acts to cattle or car-riages returning the same day be repealed; and that all the provisions of such several particular or local Acts for making or repairing turnpike roads which grant the said exemptions without such restrictions as aforesaid shall stand and be in full force; any thing in the said Act of the fifty-second year of his present Majesty's reign to the contrary notwith-standing.

No. XVII. 53 Geo. III. c. 82.

Exempting from Toll on Manures.

IV. Provided always and be it enacted, That nothing in this Act or the said Act of the fifty-second year of his Majesty's reign shall extend to *Scotland* or to any turnpike road out of *England*.

Scotland.

V. And be it further enacted, That this Act shall be deemed and taken to be a public Act and shall be judicially taken notice of as such by all judges justices and others without being specially pleaded.

Public Act.

[No. XVIII.] 54 George III. c. 109.—An Act to amend an Act of the Thirteenth Year of his present Majesty, to explain, amend, and reduce into one Act the Statutes now in force for the Amendment and Preservation of the Public Highways within *England*, and for other Purposes.—[23*d July* 1814.]

'WHEREAS by an Act passed in the thirteenth year of his present 'Majesty, intituled "An Act to explain amend and reduce into 'one Act of Parliament the statutes now in being for the Amendment 'and Preservation of the Public Highways within that part of *Great* '*Britain* called *England*, and for other Purposes," the justices of the 'peace at their general quarter or special sessions for the highways are 'empowered to allow certain assessments to be made and collected for 'the maintenance and repair of the highways: And whereas it has been 'found by experience that the assessments which are authorised by that 'Act are not sufficient for the purposes to which the same are therein 'directed to be applied;' Be it therefore enacted by the King's most ex-cellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That if upon the application of the surveyor of the highways of any parish township or place to the justices of the peace at their general or quarter sessions or at a special sessions for the highways the said justices shall be fully satisfied that the common high-ways bridges causeways streets or pavements belonging to such parish township or place are so far out of order that they cannot be sufficiently amended and supported by the means in the said herein-before recited Act of the thirteenth year of his present Majesty's reign prescribed and by the assessments therein authorised to be made and collected, it shall and may be lawful for the said justices to authorise order and direct an additional assessment to be made on such parish township or place (over and above all the assessments by the said Act authorised to be made and collected); which said additional assessment shall be levied and collected by the same means and in the same manner and form as is directed for the levying and collecting the assessments made under the authority of the said herein-before recited Act, and upon the same persons as are therein declared to be liable to be rated to the said assessments.

54 George III. c. 109.

13 Geo. 3. c. 78. § 45.

Upon Application of Surveyor of Highways, Justices may direct additional Assessment.

II. Provided always and be it enacted, That notice of such intended application shall be first proved before the said justices, upon the oath of

Notice of Application given.

No. XVIII.
54 Geo. III. c. 109.

the surveyor making such application, to have been given at the church or chapel on two *Sundays* preceding such general or quarter sessions or special sessions for the highways; or in townships or places where there are no churches or chapels, to have been stuck up in writing in two or more conspicuous places within the said townships or places for one week at least previous to such general or quarter sessions or special sessions for the highways; or in extraparochial places, to have been given in writing to some of the principal inhabitants residing in such extraparochial place, a week at least before such general or quarter sessions or special sessions for the highways; in order that any person or persons liable to be rated to the assessment intended to be applied for, may attend at such general or quarter sessions or special sessions, if they shall think fit; there to state to the said justices any objections which he she or they may have to the making and collecting of such assessment.

Objections.

Amount of Assessment limited.

III. Provided always and be it further enacted, That the assessment herein authorized shall not exceed the rate of one shilling and nine pence in the pound on the actual value at the time of making such additional assessment.

34 Geo. 3. c. 74. § 4.

IV. 'And whereas by an Act passed in the thirty-fourth year of the 'reign of his present Majesty, intituled "An Act for varying some of 'the Provisions of an Act of the Thirteenth Year of his present Majesty's 'Reign respecting the Publick Highways in that part of *Great Britain* called '*England*, which relate to Statute Duty," it is enacted, that it shall be at 'the option of the surveyor either to require the statute duty in kind or 'a composition in money in lieu thereof at certain rates which are therein 'fixed: And whereas by an Act passed in the forty-fourth year of his 'present Majesty's reign, intituled "An Act to alter and amend so much 'of an Act passed in the Thirty-fourth Year of his present Majesty, as re-'lates to the amount of the Sums to be paid by Persons compounding for 'the Performance of Statute Duty," the rates for such statute duty have 'been increased, so far as respects teams draughts ploughs and carts with 'one or two horses: And whereas the actual wages of labour and the 'actual rate of hiring teams carts horses or oxen vary at different times 'and different parts of *England*;' Be it therefore further enacted, That in all cases in which it shall be made to appear to two or more justices of the peace acting within the district, by the surveyors of the highways or of any turnpike road, that the maintenance and repair thereof can be more effectually carried on by a composition in money than by a performance of the statute duty in kind, he or they shall be at liberty to require such composition in money, upon receiving an authority under the hands and seals of the said justices for that purpose, in lieu of either the whole or of any certain part of the statute duty, from the several persons who are bound by law to perform such statute duty; and the justices of the district at their special sessions for the highways held in the week next after *Michaelmas*, yearly, shall fix such rates as they shall adjudge reasonable, as a composition in lieu of the teams carts horses oxen or labour which such persons are bound in the proportions now fixed by law to provide or perform; which rates the said justices are hereby authorised and required annually to make known at such special sessions, due regard being had to the actual wages of labour and to the actual rate of hiring teams draughts ploughs carts horses or oxen in the parish place or district in which such composition is required; and such composition shall be paid in the same manner and within the same period and subject to the same regulations and provisions as are now by law established for enforcing the payment of compositions in lieu of statute duty: Provided always that in case where the whole composition in money shall not be required in lieu of the whole of the duty in kind such composition shall be demanded in fair and equal proportions from each and every person liable to pay the same, unless any of the said persons shall prefer to pay a composition for the whole of their statute duty according to the rates fixed in the manner herein directed.

44 Geo. 3. c. 52. § 2.

Composition in lieu of Statute-duty.

Proviso.

Rate of Composition.

V. And be it further enacted, That all persons who are liable under any of the provisions of any of the herein-before recited Acts to contribute

to the repair of the highways by a payment of money in lieu of statute duty shall contribute thereto in lieu of every day's statute duty for every twenty shillings of the actual annual value at the time of making the said assessment of the lands tenements woods tithes and hereditaments which such persons shall respectively occupy in the parish township or place where they reside, or in any other parish township or place, a sum equal to one fiftieth part of the sum fixed by the justices at the time and in the manner by this Act directed as the composition for one day's labour of a cart wain or carriage furnished with three horses and two able men, omitting any fractional part of the said sum which does not amount to one farthing; and all persons occupying more than fifty pounds *per annum* in the parish township or place wherein they reside, or in any other parish township or place, and less than one hundred pounds *per annum*, shall contribute to the repairs of the highways in lieu of every day's statute duty for every twenty shillings of the actual annual value at the time of making the said assessment of the lands tenements woods tithes and hereditaments which such person shall respectively occupy over and beyond the said sum of fifty pounds *per annum* and under one hundred pounds, a sum equal to one fiftieth part of the sum fixed by the said justices at the time and in the manner by this Act directed, as the composition for one day's labour of a cart wain or carriage furnished with three horses and two able men, omitting any fractional part of the said sum which does not amount to one farthing; and so on progressively for every twenty shillings of the actual annual value of the lands tenements woods tithes and hereditaments which they shall respectively occupy over and beyond every additional fifty pounds *per annum*; and the said sum or sums shall be paid in the same manner and within the same period and subject to the same regulations and provisions as are now by law established for enforcing the payment of composition in lieu of statute duty.

Persons keeping Carriages though not occupying to Amount of 50*l.* liable to Composition.

VI. And be it further enacted, That every person who shall keep a coach post chaise chair or other wheel carriage, and not keep a team draught or plough nor occupy fifty pounds *per annum* in the parish township or place where he resides, shall pay to the surveyor or surveyors in respect of every day's statute duty for every horse which he or she shall use in drawing such carriage such a sum as the justices shall at the time and in the manner by this Act directed fix as the composition for one day's work of a horse; or shall at the option of the surveyor or surveyors pay in lieu of every day's statute duty for every twenty shillings of the actual annual value of the lands tenements woods tithes and hereditaments which he or she shall respectively occupy, a sum equal to one fiftieth part of the sum fixed by the justices at the time and in the manner by this Act directed, as the composition for one day's labour of a cart wain or carriage furnished with three horses and two able men, omitting any fractional part of the said sum which does not amount to one farthing: and the said sum or sums shall be paid in the same manner and within the same period, and subject to the same regulations and provisions as are now by law established for enforcing the payment of compositions in lieu of statute duty.

Performance of Statute Duty.

VII. And be it further enacted, That all persons who shall refuse or neglect to perform any part of their statute duty in kind on being regularly summoned by the surveyor for that purpose, shall forfeit and pay a sum equal to twice the amount of the composition for such statute duty as they shall have so neglected or refused to perform, according to the rates fixed by the justices under the provisions of this Act; and the said persons shall also be liable to perform the said statute duty which they have so neglected or refused to perform either in the same or in the following year; the payment of such forfeitures and the arrears of such statute duty to be enforced and applied to the benefit of the highway or turnpike road as the case may be, to which the original neglected duty was due or owing, by the surveyor or surveyors for the time being, and under the same regulations and in the same manner as other forfeitures may be levied and statute duty may in other cases be enforced by any of the provisions of any of the said herein-before recited Acts.

Forfeitures and Arrears how enforced, &c.

No. XVIII.

54 Geo. III. c. 109.

Justices of Peace, &c. to execute Act.

VIII. And be it further enacted, That the justices of the peace and magistrates of all cities corporations boroughs precincts liberties and other separate jurisdictions are hereby authorised and required to put in execution every part of this Act within their respective jurisdictions so far as the provisions thereof are applicable, in as full and ample a manner as the justices of any county or of any division thereof.

Not to alter former Acts but where expressly amended.

IX. Provided also and be it further enacted, That nothing in this Act contained shall alter the several herein-before recited Acts, nor any Act or Acts passed subsequently to the said herein-before recited Acts regarding the highways or turnpike roads in *England* and *Wales*; but that the same, where not expressly amended or altered by this Act, shall remain in as full force as at the time of passing this Act; and that all their powers authorities provisions regulations and forms shall be applicable not only to the carrying those Acts respectively into execution but also this Act, so far as the same are adapted thereto and are not expressly varied or altered by this Act, in as full and ample a manner as if the same had been re-enacted in this Act.

[No. XIX.] 55 George III. c. 68.—An Act to amend an Act of the Thirteenth Year of his present Majesty, for the Amendment and Preservation of the Public Highways, in so far as the same relates to Notice of Appeal against turning or diverting a Public Highway; and to extend the Provisions of the same Act to the stopping up of unnecessary Roads.—[*7th June*, 1815.]

55 George III. c. 68.

13 Geo. 3. c. 78.

WHEREAS by an Act of Parliament made in the thirteenth year of the reign of his present Majesty, intituled "An Act to explain amend and reduce into one Act of Parliament the Statutes now in being for the Amendment and Preservation of the Public Highways within that part of *Great Britain* called *England*, and for other Purposes," it was, amongst other things enacted, that when it should appear upon the view of any two or more of the justices of the peace in the said Act mentioned that any public highway not in the situation therein-before described or public bridleway or footway might be diverted so as to make the same nearer or more commodious to the public, and the owner or owners of the lands and grounds through which such new highway bridleway or footway was proposed to be made, should consent thereto by writing under his or their hand and seal or hands and seals, it should and might be lawful by order of such justices at some special sessions to divert and turn and stop up such footway, and to divert turn and stop up and inclose sell and dispose of such old highway or bridleway and to purchase the ground and soil for such new highway bridleway or footway, by such ways and means and subject to such exceptions and conditions in all respects as in the said recited Act mentioned with regard to highways to be widened or diverted; and where any such highway bridleway or footway herein last before described should be so ordered to be stopped up or inclosed, and such new highway bridleway or footway set out and appropriated in lieu thereof as aforesaid, it should and might be lawful for any person or persons injured or aggrieved by any such order or proceeding or by the inclosure of any road or highway, by virtue of any inquisition taken upon any writ of *Ad quod Damnum*, to make his or their complaint thereof by appeal to the justices of the peace at the next quarter sessions which should be holden within the limit where the same should lie after such order made or proceeding had as afore-said, upon giving ten days' notice in writing of such appeal to the surveyor and party interested in such inclosure if there should be sufficient time for that purpose, if not such appeal might be made upon the like notice to the next subsequent quarter sessions of the peace; which courts of quarter sessions were thereby respectively authorised and empowered to

No. XIX.
55 Geo. III. c. 68.

hear and finally determine such appeal; and if no such appeal be made or being made, such order and proceedings should be confirmed by the said court, the said inclosures might be made and the said ways stopped, and the proceedings thereupon should be binding and conclusive to all persons whomsoever; and the new highway bridleway or footway so to be appropriated and set out should be and for ever after continue a public highway bridleway or footway to all intents and purposes whatsoever; but that no inclosures of such highway bridleway or stoppage of such footway should be made, until such new highway bridleway or footway should be completed and put into good condition and repair, and so certified by two justices of the peace upon view thereof; which certificate it was thereby enacted should be returned to the clerk of the peace and inrolled amongst the records of the said court of quarter sessions; but from and after such certificate such old highways bridleway or footway should and might be stopped up, and the soil of such old highways or bridleways sold in the manner and subject to the reservations and restrictions in the said recited Act mentioned, with respect to the highways to be enlarged or diverted by virtue thereof: and whereas it is expedient that more public notice should be given of any order made or proceeding had for diverting turning stopping and enclosing any highway bridleway or footway; and also that a greater facility of appeal to the quarter sessions against such order or proceeding should be given to any person or persons who may think themselves aggrieved thereby; and it is also expedient that his Majesty's justices of the peace should have power under certain regulations to stop up unnecessary highways bridleways and footways: May it therefore please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That so much of the said Act of the thirteenth year of his present Majesty as herein-before recited shall be and the same is hereby repealed.

Part of 13 Geo. 3. c. 78. repealed.

II And be it further enacted by the authority aforesaid, That when it shall appear upon the view of any two or more of the said justices of the peace that any public highway or public bridleway or footway may be diverted so as to make the same nearer or more commodious to the public, and the owner or owners of the lands and grounds through which such new highway bridleway or footway so proposed to be made shall consent thereto by writing under his or their hand and seal or hands and seals, it shall and may be lawful by order of such justices at some special sessions to divert and turn and to stop up such footway, and to divert turn stop up and inclose sell and dispose of such old highway or bridleway and to purchase the ground and soil for such new highway bridleway or footway by such ways and means and subject to such exceptions and conditions in all respects as in the said recited Act mentioned with regard to highways to be widened or diverted; and also when it shall appear upon the view of any two or more of the said justices of the peace that any public highway bridleway or footway is unnecessary, it shall and may be lawful by order of such justices or any two of them to stop up and to sell and dispose of such unnecessary highway bridleway or footway by such ways and means and subject to such exceptions and conditions in all respects as in the said recited Act is mentioned in regard to highways to be widened and diverted; except that the money to arise from such sale where by the said Act it would be applicable to the purchase of the ground and soil of the new highways or bridleways therein mentioned, shall be paid to the surveyor or surveyors and be applied towards the general repairs of the highways and bridleways of the parish township or place within which the said highway bridleway or footway so stopped up shall be situate: Provided that in the several cases before mentioned a notice in the form or to the effect of Schedule (A.) to this Act annexed, shall be affixed in legible characters at the place and by the side of the said highway bridleway or footway from whence the same is directed to be turned diverted or stopped up, and also inserted in one or more newspaper or newspapers published or generally circulated in the county where the parish township or

Justices by Order at Special Sessions may divert and turn certain Highways, Bridleways, and Footways.

Justices may order the stopping up of unnecessary Highways, &c.

Such Notice to be inserted in the Newspapers of the County in which such Highways, &c. shall lie;

No. XVIII.
55 Geo. III. c. 68.

place in which the highway bridleway or footway so ordered to be diverted and turned or stopped up (as the case may be) shall lie (or in case no such newspaper shall be so published or circulated in such county, then in any newspaper or newspapers published or circulated in the nearest adjoining county) for three successive weeks after the making of such order; and a like notice shall be affixed to the door of the church or chapel of every parish or township, in which such highway bridleway or footway so ordered to be diverted turned or stopped up or any part thereof shall lie, on three successive *Sundays* subsequent to the making of such order; and the said several notices having been so published the said order shall at the quarter sessions which shall be holden within the limit where the highway bridleway or footway so diverted and turned or stopped up shall lie next after the expiration of four weeks from the first day on which such notices shall have been published as aforesaid, be returned to the clerk of the peace in open court and lodged with him; and the said order shall at such quarter sessions be confirmed and by the clerk of the peace inrolled amongst the records of the said court of quarter sessions. (1.)

and the Order returned to the Clerk of the Peace, and confirmed and inrolled at Quarter Sessions.

III. Provided always and be it further enacted, That where any such highway bridleway or footway shall be so ordered to be stopped up or inclosed and such new highway bridleway or footway set out and appropriated in lieu thereof as aforesaid, or where any unnecessary highway bridleway or footway shall be so ordered to be stopped up as aforesaid, it shall and may be lawful for any person or persons injured or aggrieved by any such order or proceeding or by the inclosure of any road or highway by virtue of any inquisition taken upon any writ of *Ad quod Damnum* to make his or their complaint thereof by appeal to the justices of the peace at the said quarter sessions, upon giving ten days' notice in writing of such appeal to the surveyor of the highways of the parish township or place wherein such highway bridleway or footway shall be situated; and also affixing such notice to the door of the church or chapel of such parish township or place; and the said court of quarter sessions is hereby authorised and empowered to hear and finally determine such appeal. (2.)

Persons injured by any such Order or Proceedings, may appeal to Justices at Quarter Sessions, upon giving Notice thereof in Writing.

IV. Provided always and be it further enacted by the authority aforesaid, That if no such appeal be made or being made, such order and proceedings shall be confirmed by the said court, the said inclosures may be made and the said ways stopped; and the proceedings thereupon shall be binding and conclusive to all persons whomsoever; and the new highways bridleways and footways so to be appropriated and set out shall be and for ever after continue a public highway bridleway or footway to all intents and purposes whatsoever; but no inclosures of such old highways bridleways or footways (except in the case of stopping up of such useless highways bridleways or footways as herein-before is mentioned) shall be made until such new highway bridleway or footway shall be completed and put into good condition and repair, and so certified by two justices of the peace upon view thereof; which certificate shall be returned to the clerk of the peace and by him inrolled amongst the records of the court of quarter sessions next after such order as aforesaid shall have been confirmed or inrolled pursuant to the directions herein-before contained; but from and after the inrolment of such order and certificate such old highway bridleway or footway shall be stopped up and the soil of such old highway or bridleway sold in the manner and subject to the reservations and restrictions in the said recited Act mentioned with respect to highways to be diverted by virtue of the said recited Act.

If no Appeal be made, or if such Order be confirmed, the old Ways may be stopped, and Proceedings shall be conclusive; and new Highways shall afterwards continue a Public Highway, &c.

V. Provided always and be it further enacted, That this Act or any thing herein contained shall not and shall not be construed to annul or in any way affect or impeach any order or proceeding for the diverting or stopping up any highway bridleway or footway made or had previous to

Act not to annul any previous Order or Proceedings.

(1.) Vide Rex *v.* Worcestershire (Justices), 2 B. & A. 228.

(2.) In an Appeal against an Inclosure of a Highway, by virtue of a Writ of *Ad quod Damnum*, the notices required by the 55 Geo. 3. c. 68. must be given, and a notice to the party interested is not alone sufficient. Rex. *v.* Essex (Justices), 1 B. & A. 373.

the day of passing of this Act, but such order and proceedings may be proceeded in and completed in the same manner, and shall be valid and binding on all persons whatsoever to all intents and purposes as if this Act had not been made; any thing herein-before contained to the contrary notwithstanding.

No. XIX, 55 Geo. III. c. 68.

VI. And whereas by an Act passed in the fifty-fourth year of his present Majesty, intituled, "An Act to amend an Act of the Thirteenth Year of his present Majesty," it is among other things enacted, that two or more justices of the peace at their special sessions to be holden in the week next after *Michaelmas* yearly shall fix such rates as they shall adjudge reasonable as a composition in lieu of teams carts horses oxen or labour: And whereas certain other matters relative to the highways are directed to be done by justices of the peace at their special sessions to be holden in the week next after the *Michaelmas* quarter sessions: And whereas the time for holding the *Michaelmas* quarter sessions has been altered by an Act made in the fifty-fourth year of his present Majesty, intituled, "An Act for regulating the Time of holding the *Michaelmas* Quarter Sessions;" Be it therefore enacted, That it shall and may be lawful for the justices of the peace assembled in their special sessions in the week after *Michaelmas* to do and perform every act which they might heretofore legally have done in the special sessions directed to be holden in the week after the said *Michaelmas* general quarter sessions of the peace.

54 G. 3. c. 109.

54 G. 3. c. 84.

To act in Michaelmas Special Sessions.

Schedule to which this Act refers.

Schedule (A.)—Form of Notice.

NOTICE is hereby given, That on the day of last, an order was signed by *J. W.* and *T. H.* two of his Majesty's Justices of the Peace in and for the county of for [*if the order be for* turning diverting and stopping up, &c. *here so state it, and describe the road ordered to be* turned diverted and stopped up;—*if the order be for* stopping up a useless road, *here so state it, and describe the road ordered to be stopped up;*] and that the said order will be lodged with the clerk of the peace for the said county at the general quarter sessions of the peace to be holden at in and for the said county, on the day of next, and also that the said order will at the said quarter sessions be confirmed and inrolled, unless upon an appeal against the same to be then made it be otherwise determined.

[No. XX.] 55 George III. c. 119.—An Act to enable the Trustees of Turnpike Roads to abate the Tolls on Carriages, and to allow of their carrying extra Weights in certain Cases.—[28*th June* 1815.]

55 George III. c. 119.

WHEREAS it might tend greatly to the preservation of the several turnpike roads within that part of the United Kingdom called *England* if the trustees acting in execution of the several Acts for the maintaining and repairing thereof were enabled to grant certain privileges and abatements of tolls to all waggons carts or other such carriages having the axletrees thereof horizontal, and the wheels thereof standing perpendicular on the ground with flat and level fellies and of particular breadths; May it therefore please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That it shall and may be lawful to and for the respective trustees or any seven or more of them acting in execution of any Act or Acts of Parliament for maintaining and repairing any turnpike road or roads in that part of the United Kingdom called *England*, at any of their respective meetings to be holden in pursuance of such Act or Acts, and they are hereby authorised and empowered by order to be made at any such meetings (in case they shall think it proper and expedient) to exempt from the payment of all

Trustees of Roads empowered to exempt Carriages having Wheels of the Description herein mention from Tolls imposed for Overweight.

No. XX.
55 Geo. III. c. 119.

or any part of the additional tolls for every one hundred weight of one hundred and twelve pounds to the hundred which any waggon cart or other such carriage together with the loading thereof shall weigh at any weighing engine erected or to be erected over and above the weights allowed to each of them respectively, by an Act made in the thirteenth year of the reign of his present Majesty, intituled "An Act to explain amend and reduce into one Act of Parliament the general Laws now in being for regulating the Turnpike Roads in that part of *Great Britain* called *England*, and for other Purposes," imposed and granted by an Act made in the fourteenth year of the reign of his present Majesty, intituled "An Act for explaining and altering an Act made in the thirteenth year of his present Majesty, intituled, 'An Act to explain amend and reduce 'into one Act of Parliament the general Laws now in being for regu-'lating the Turnpike Roads in that part of *Great Britain* called *England*, 'and for other Purposes;' so far as the same relates to the Payment of additional Tolls at Weighing Engines and the number of Horses to be used in Carriages drawn on Turnpike Roads, and for allowing certain Exemptions with respect to Weights and Payment of Toll in particular Cases;' provided such waggon cart or other such carriage shall have the soles or bottoms of the fellies of all the wheels thereof of the breadth of six inches or of nine inches or of sixteen inches or upwards and be cylindrical, that is to say, of the same diameter on the inside next the carriage as on the outside, so that when such wheels shall be rolling on a flat or level surface the whole breadth thereof shall bear equally on such flat or level surface; and provided that the opposite ends of the axletrees of such waggon cart or other carriage, so far as the same shall be inserted in the respective naves of the wheels thereof, shall be horizontal and in the continuance of one straight line without forming any angle with each other; and so that in each pair of wheels belonging to such carriage the lower parts when resting on the ground shall be at the same distance from each other as the upper parts of such pair of wheels: Provided always, that no such exemption from such additional tolls or penalties for overweight, or from any part or parts thereof, shall be allowed or granted for or in respect of any such waggon cart or other carriage, having the fellies of the wheels thereof of six inches and upwards in breadth and less than nine inches in breadth notwithstanding the wheels and fellies thereof shall be so made and the axle trees thereof so formed and fixed as aforesaid, in case such overweight shall exceed eight hundred weight; nor shall any such exemption be allowed or granted for or in respect of any waggon cart or other carriage having the fellies of the wheels thereof of nine inches and upwards in breadth and less than sixteen inches in breadth, notwithstanding the wheels and fellies thereof shall be so made and the axle-trees thereof so formed and fixed as aforesaid, in case such overweight shall exceed six hundred weight; nor shall any such exemption be allowed or granted for or in respect of any such waggon cart or other carriage having the fellies of the wheels thereof of sixteen inches and upwards in breadth, notwithstanding the wheels and fellies thereof shall be so made and the axletrees thereof so formed and fixed as aforesaid, in case such overweight shall exceed thirty hundred weight.

Geo. 3. c. 78.

14 Geo. 3. c. 82.

Cases where Exemption shall not be allowed.

Trustees may reduce other Tolls.

II And be it further enacted, That it shall and may be lawful to and for the respective trustees or any seven or more of them acting in execution of any Act or Acts of Parliament for maintaining and repairing any turnpike road or roads in that part of the United Kingdom called *England*, at any of their respective meetings to be holden in pursuance of such Act or Acts, and they are hereby authorised and empowered in case they shall think it proper and expedient to reduce any part or parts of the toll or tolls payable by virtue of such Act or Acts, for or in respect of each and every waggon cart or other such carriages, or the horse or horses beast or beasts or other cattle drawing such waggon cart or other carriage having the wheels and fellies so made and the axletrees thereof so formed and fixed as aforesaid: Provided always, That nothing herein contained shall extend or be construed to extend to enable such trustees to reduce such toll or tolls more than one-fourth of the toll or tolls that

might otherwise be demanded and taken for or in respect of each and every such waggon cart or other such carriage, or the horse or horses beast or beasts or other cattle drawing the same.

III. Provided always and be it enacted, That nothing herein contained shall extend or be construed to extend to enable the said trustees or any seven or more of them to reduce any such toll or tolls or any of such penalties for overweight during the continuance or existence of any lease or leases thereof, without the consent in writing of the lessee or lessees first had and obtained for that purpose.

Tolls not to be reduced without Consent of Lessee.

[No. XXI.] 57 George III. c. 37.—An Act to explain and amend an Act of the Fifty-third Year of his present Majesty, relating to Tolls on Carriages used in Husbandry, and to remove Doubts as to Exemption of Carriages, not wholly laden with Manure, from Payment of Toll.—[20*th June* 1817.]

57 George III. c. 37.

53 Geo. 3. c. 82

WHEREAS by a clause in an Act of Parliament made in the fifty-third year of the reign of his present Majesty, intituled *An Act to amend an Act made in the Fifty-second Year of his present Majesty's Reign, intituled 'An Act to explain the Exemption from Toll in several 'Acts of Parliament for Carriages employed in Husbandry and for regulat-'ing the Tolls to be paid on other Carriages and on Horses in certain other 'Cases therein specified,' and for other Purposes relating thereto*, it is enacted, That from and after the passing of the said Act the owner or driver of any waggon cart or other carriage laden with manure for land passing through any turnpike or otherwise passing on or across any turnpike road should not be liable to pay any toll nor should any toll be demanded for such carriage so laden or the cattle drawing the same by reason only of any empty basket or baskets empty sack or sacks for more convenient carriage, or spade shovel or fork necessary for loading or unloading such manure, being in or upon any such waggon cart or other carriage in addition to such manure, if the loading thereof is substantially manure for land as aforesaid; any thing in any Act contained to the contrary thereof notwithstanding: And whereas doubts have arisen whether the said clause does not extend to give a general exemption from toll to all carriages laden with manure for land, although the same were made expressly liable to toll by the respective local Acts by which tolls are imposed and levied for the maintenance of any turnpike roads: And whereas such construction would operate very injuriously both to the funds required for the keeping up such respective roads and to the security of the creditors who have advanced money upon the credit of the same: For remedy thereof be it declared and enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That nothing in the said clause or in any other clause of the same or of any other Act or Acts of Parliament shall extend or be construed to extend to exempt any such carriages as aforesaid or the horses or other cattle drawing the same from any tolls or duties imposed by virtue of any local Act or Acts under which any such tolls or duties have been or shall be imposed for the maintenance and repair of such respective roads upon which such carriages shall go or travel.

Recited Act, or any other Act, not to exempt certain Carriages from Tolls.

II. Provided always and it is hereby enacted and declared, That nothing in this Act contained shall be construed to repeal vary or alter any clause or provision in the said Act passed in the said fifty-third year of his present Majesty's reign nor any other Act or Acts of Parliament so far as respects any turnpike road or roads or the tolls to be collected at any gate or gates erected or to be erected thereon within the cities of *London* or *Westminster* or within the distance of fifteen miles from the *Royal Exchange*.

Not to alter the Provisions of the recited Act, &c. so far as respects Turnpike Roads or Tolls collected within a certain Distance.

No. XXI. 57 Geo. III. c. 37. Publick Act.

III. And be it further enacted, That this Act shall be deemed and taken to be a publick Act and shall be judicially taken notice of as such by all judges justices and others without being specially pleaded.*

[No. XXII.] 58 George III. c. 2.—An Act to suspend until the end of the present Session of Parliament the Operation of an Act made in the last Session of Parliament, to provide for the more deliberate Investigation of Presentments to be made by Grand Juries for Roads and Public Works in *Ireland*, and accounting for Money raised by such Presentments.—[18*th February* 1818.]

[No. XXIII.] 58 George III. c. 44.—An Act to alter the Application of part of the Sum of 50,000*l.* granted by an Act passed in the Fifty-sixth Year of the Reign of his present Majesty, intituled an Act for improving the Road from the City of *Glasgow* to the City of *Carlisle*.—[28*th May* 1818.]

[No. XXIV.] 58 George III. c. 67.—An Act to provide for the more deliberate Investigation of Presentments to be made by Grand Juries, for Roads and Public Works in *Ireland*, and for accounting for the Money raised by such Presentments.—[3*d June* 1818.]

[No. XXV.] 59 George III. c. 30.—An Act for vesting in Commissioners the line of Road from *Shrewsbury*, in the County of *Salop*, to *Bangor Ferry*, in the County of *Carnarvon*, and for discharging the Trustees under several Acts of the Seventeenth, Twenty-eighth, Thirty-sixth, Forty-first, Forty-second, Forty-Seventh, and Fiftieth Years of his present Majesty from the future Repair and Maintenance thereof; and for altering and repealing so much of the said Acts as affects the said line of Road.—[19*th May* 1819.]

[No. XXVI.] 59 George III. c. 84.—An Act to amend the Laws for making, repairing, and improving the Roads and other Public Works in *Ireland* by Grand Jury Presentments, and for a more effectual Investigation of such Presentments, and for further securing a true, full, and faithful Account of all Monies levied under the same.—[7*th July* 1819.]

[No. XXVII.] 59 Geo. III. c. 135.—An Act to repeal Two Acts made in the Fifty-fourth and Fifty-fifth Years of the Reign of his present Majesty for maintaining and

keeping in Repair certain Roads and Bridges in *Scotland*, to provide more effectually for that Purpose; and for Regulation of Ferries in *Scotland*.—[13*th July* 1819.]

No. XXVII. 59 Geo. III. c. 135.

[No. XXVIII.] 1 George IV. c. 70.—An Act for Improving the Roads between *London* and *Chirk*, in the County of *Denbigh*, by *Coventry*, *Birmingham*, and *Shrewsbury*.—[15*th July* 1820.]

[No. XXIX.] 1 George IV. c. 95.—An Act for obtaining Returns from Turnpike Road Trusts of the Amount of their Revenues and Expense of maintaining the same.—[24*th July* 1820.]

PART VI.

CLASS XXIII.

Justices of Peace.

[No. I.] 1 Edward III. Stat. 2. c. 16.—Who shall be assigned Justices and Keepers of the Peace.

1 Edw. III. stat. 2. c. 16.

'ITEM, for the better keeping and maintenance of the peace the King 'will, That in every county good men and lawful which be no main-'tainers of evil or barretors in the country shall be assigned to keep the 'peace.'

[No. II.] 4 Edward III. c. 2.—The Authority of Justices of Assize, Gaol-delivery, and of the Peace.

4 Edw. III. c 2.

'ITEM, it is ordained, That good and discreet persons other than of the 'places if they may be found sufficient shall be assigned in all the 'shires of *England* to take assizes juries and certifications and to deliver 'the gaols; and that the said justices shall take the assizes juries and 'certifications and deliver the gaols at the least three times a year and 'more often, if need be Also there shall be assigned good and lawful 'men in every county to keep the peace And at the time of the assign-'ments mention shall be made that such as shall be indicted or taken by 'the said keepers of the peace shall not be let to mainprize by the sheriffs 'nor by none other ministers if they be not mainpernable by the law; 'nor that such as shall be indicted shall not be delivered but at the com-'mon law. And the justices assigned to deliver the gaols shall have 'power to deliver the same gaols of those that shall be indicted before the 'keepers of the peace, and that the said keepers shall send their indict-'ments before the justices and they shall have power to inquire of she-'rifis gaolers and other in whose ward such indicted persons shall be, if 'they make deliverance or let to mainprize any so indicted which be not 'mainpernable, and to punish the said sheriffs gaolers and others if they 'do any thing against this Act'

[No. III.] 18 Edward III. Stat. 2. c. 2.—Justices of Peace shall be appointed, and their Authority.

18 Edw. III. stat. 2. c. 2.

'ITEM, That two or three of the best of reputation in the counties shall 'be assigned keepers of the peace by the King's commission, and at 'what time need shall be the same with other wise and learned in the 'law shall be assigned by the King's commission to hear and determine 'felonies and trespasses done against the peace in the same counties, and 'to inflict punishment reasonable according to law and reason and the 'manner of the deed.'

[No. IV.] 34 Edward III. c. 1.—What Sort of Persons shall be Justices of Peace; and what Authority they shall have.

34 Edw. III. c. 1.

'FIRST, That in every county of *England* shall be assigned for the 'keeping of the peace one lord and with him three or four more of

No. IV. 34 Edw. III. c. 1.

'the most worthy in the county with some learned in the law, and they 'shall have power to restrain the offenders rioters and all other barators 'and to pursue arrest take and chastise them according to their trespass 'or offence; and to cause them to be imprisoned and duly punished according to the law and customs of the realm and according to that 'which to them shall seem best to do by their discretions and good advisement; and also to inform them and to inquire of all those that have 'been pillors and robbers in the parts beyond the sea and be now come 'again and go wandering and will not labour as they were wont in times 'past, and to take and arrest all those that they may find by indictment 'or by suspicion and to put them in prison; and to take of all them that 'be not of good fame where they shall be found sufficient surety and 'mainprize of their good behaviour towards the King and his people and 'the other duly to punish, to the intent that the people be not by such 'rioters or rebels troubled nor endamaged nor the peace blemished nor 'merchants nor others passing by the highways of the realm disturbed 'nor put in the peril which may happen of such offenders. And also to 'hear and determine at the King's suit all manner of felonies and trespasses done in the same county according to the laws and customs aforesaid: and that writs of *Oyer* and *Terminer* be granted according to the 'statutes thereof made, and that the justices which shall be thereto assigned be named by the court and not by the party. And the King 'will that all general inquiries before this time granted within any seigmories for the mischiefs and oppressions which have been done to the 'people by such inquiries shall cease utterly and be repealed; and that 'fines which are to be made before justices for a trespass done by any 'person be reasonable and just, having regard to the quantity of the 'trespass and the causes for which they be made.'

Justices of Peace may hear and determine Felonies and Trespasses.

Commissioners of general Inquiries shall cease.

Fine for Trespasses shall be reasonable.

[No. V.] 12 Richard II. c. 10.—How many Justices of Peace there shall be in every County, and how often they shall keep their Sessions.

12 Rich. II. c. 10.

'ITEM, it is ordained and agreed, That in every commission of the justices of peace there shall be assigned but six justices with the justices of assizes, and that the said six justices shall keep their sessions in 'every quarter of the year at the least, and by three days if need be, upon 'pain to be punished according to the discretion of the King's council at 'the suit of every man that will complain: and they shall inquire diligently amongst other things touching their offices if the said mayors 'bailiffs stewards constables and gaolers have duly done execution of the 'said ordinances of servants and labourers beggars and vagabonds and 'shall punish them that be punishable by the said pain of an hundred 'shillings by the same pain; and they that be found in default and which 'be not punishable by the same pain shall be punished by their discretion. And every of the said justices shall take for their wages four 'shillings the day for the time of their said sessions and their clerk two 'shillings of the fines and amerciaments rising and coming of the same 'sessions by the hands of the sheriffs. And that the lords of franchises 'shall be contributory to the said wages after the rate of their part of 'fines and amerciaments aforesaid. And that no steward of any lord be 'assigned in any of the said commissions. And that no association shall 'be made to the justices of the peace after their first commission. And 'it is not the intent of this statute that the justices of the one bench or 'the other nor the serjeants of the law in case that they shall be named in 'the said commissions shall be bound by force of this statute to hold the 'said sessions four times in the year as the other commissioners the 'which be continually dwelling in the country, but that they shall do it 'when they may best attend it.

The Wages of the Clerk of the Peace.

No Association of Justices of Peace.

The Judges and Serjeants of the Law shall attend the Sessions but when they may.

No. VI.
13 Rich. II. stat. 1. c. 7.

[No. VI.] 13 Richard II. Stat. 1. c. 7.—What Sort of Persons shall be Justices of Peace, and what their Charge is to do.

13 Rich. II. c. 7.

"ITEM, Whereas it is contained in the last statute made at *Canterbury*, that no steward of any lord shall be assigned in the commission of the justice of peace;" 'nevertheless for certain causes shewed in this parliament it is accorded and assented, That justices of peace shall be made of new in all the counties of *England*, of the most sufficient knights esquires and gentlemen of the law of the said counties, notwithstanding the said statute; and that the said justices be sworn duly without favour to keep and put in execution all the statutes and ordinances touching their offices.'

[No. VII.] 14 Richard II. c. 11.—In every County there shall be Eight Justices of Peace. Their Estreats and Wages.

14 Rich. II. c. 11.

The Justices Estreats shall be double.

What Justices shall be allowed no Wages.

A Seal for Servants.

'ITEM, That in every county be assigned eight justices of peace, as is contained in the statute of *Canterbury*, besides the lords assigned in this Parliament: and that the estreats of the said justices be doubled, and the one part delivered by the said justices to the sheriff to levy the money thereof, rising and thereof to pay to the justices and their clerks their wages by the hand of the said sheriff by indenture betwixt them thereof to be made, and that the sheriffs have allowance in their account in the Exchequer by the same indenture: and that no duke earl baron or baneret, albeit they be assigned justices of the peace and hold their sessions with the other eight justices, shall take any wages for the said office. And that the justices who hold their sessions put their names and the names of their clerks in the same estreats, together with the number of the days of their sessions, to the intent that the sheriffs may know to whom to pay the wages and to whom not; and the barons of the Exchequer to whom to allow and to whom not: and that the seals be made for the servants and delivered to the keeping of some good man of the country after the purport of the said statute of *Canterbury*, which statute, with the modification of the same made at the last Parliament, and the statute of weights and measures and all other good statutes and ordinances made heretofore, and not repealed, shall be holden and kept and put in due execution.'

[No. VIII.] 2 Henry V. Stat. 2. c. 1.—What Sorts of Men shall be Justices of the Peace.

2 Henry V. stat. 2. c. 1.

FIRST, That the justices of the peace from henceforth to be made within the counties of *England* shall be made of the most sufficient persons dwelling in the same counties by the advice of the chancellor and of the King's council, without taking other persons dwelling in foreign counties to execute such office, except the lords and the justices of assizes now named and to be named by the King and his council, and except all the King's chief stewards of the lands and seigniories of the duchy of *Lancaster* in the north parts and in the south for the time being.

[No. IX.] 11 Henry VI. c. 6.—No Suit pending before any Justices, &c. shall be discontinued by a new Commission.

11 Henry VI. c. 9.

'ITEM, Our lord the King considering the great losses and damages which oftentimes have come and be likely to come hereafter as well to himself as to many of his lieges, for that where as well divers indict-

No. IX.
11 Hen. VI. c. 6.

'ments and suits for our lord the King as other suits between party and 'party have been taken before divers justices of the peace assigned by 'several commissions of our said Lord the King in divers counties of '*England*, and divers pleas and processes upon those indictments have 'often been made and hanging before the same justices not determined, 'the which pleas and processes have been often discontinued by making 'of new commissions of the peace in those counties to the great loss of 'our said Lord the King and of his subjects, in delay of the same pleas 'and suits and of the deliverance of his said subjects:' and upon that our Lord the King willing to provide remedy, of the assent and authority aforesaid hath ordained and established, That in all such pleas suits and processes in them to be taken and to be made before justices of the peace in any county of *England*, the said pleas and processes in such suits to be done shall not be discontinued by such new commissions of the peace to be made, but those pleas and processes shall stand in their force. And the justices in the same new commissions so assigned, after that they shall have the records of the same pleas and processes before them, shall have power and authority to continue the said pleas and processes; and the same pleas and processes and all that depend upon them to hear and finally to determine as the other justices might and ought to have done of and in the same if no new commission had been made.

[No. X.] 1 Mary, Sess. 2. c. 8.—An Act that Sheriffs shall not be Justices of Peace during that Office.

1 Mary, sess. 2. c. 8.
12 Ed. 4. c. 1.
No Sheriff shall be Justice of Peace where or when he is Sheriff.

'WHERE in one Act of Parliament, intituled "An Act for the Continuance of Actions after the Death of any King," made in the first 'year of our late sovereign Lord King *Edward* the Sixth, amongst other 'things it is ordained and enacted, That albeit any person or persons 'being justice of assize justice of gaol delivery or justice of peace within 'any of the King's dominions or being in any other of the King's commissions whatsoever, shall fortune to be made duke archbishop marquess earl viscount baron bishop knight justice of the one bench or of 'the other or serjeant at the law or sheriff, yet that notwithstanding he 'and they should remain justice and commissioner and have full power 'and authority to execute the same in like manner and form as he or they 'might or ought to have done before the same as in the said Act more 'plainly appeareth: (2) Sithence the making of which Act divers persons 'being in commission of the peace in one county have been made sheriffs 'of the same county and have exercised either of the said offices, which 'seemeth not to be convenient:'

II. Wherefore be it enacted by the authority of this present Parliament, That no manner of person or persons having using or exercising the office of the sheriff of any county or counties shall use or exercise the office of the justice of the peace by force of any commission or otherwise in any county or counties where he or they shall be sheriff during the time only that he or they shall use or exercise the said office of sheriffwick: any thing in the said former Act to the contrary in any wise notwithstanding. And that all and every act and acts to be done by any such sheriff and sheriffs by authority of any commission of the peace during the time abovesaid shall be void and of none effect; the said former Act notwithstanding.

[No. XI.] 2 & 3 Philip and Mary, c. 18.—An Act touching Commissions of the Peace and of Gaol-delivery, in Towns Corporate not being Counties.

2 & 3 Philip & Mary, c. 18.
19 H. 7. c. 7.

'WHERE the King and Queen's most excellent Highness and their 'noble progenitors, kings of this realm, have heretofore granted their 'several commissions directed as well unto the mayors recorders and 'other grave men, and inhabitants of certain ancient and famous cities 'and towns corporate within this realm of *England* not being counties in

No. XI.
2 & 3 Phil. & M. c. 18.

'themselves, as also unto divers other worshipful and learned men dwelling out of the same cities and towns corporate, as well for the keeping of their peace good ordering of their people and executing of their laws and statutes within the same cities and towns corporate as also for the delivery of their Majesties prisoners remaining in the gaols there; and after the granting of such commissions their Majesties have granted divers other like commissions unto certain worshipful and learned men of the shires lathes rapes ridings and wapentakes of this realm of *England* for the conservation of their peace and also delivering of their prisoners remaining in their gaols within the same shires lathes rapes ridings and wapentakes; (2) which commissions so bearing a later day have been a *supersedeas* and clear discharge unto all and singular the said former commissions granted unto the said cities and towns corporate not being counties in themselves; (3) so that the said mayor and other grave and chiefest officers of every such city and town corporate have been charged to sue for the renewing again of such commissions both for the peace and gaol delivery, to the great expences costs and charges of the said mayor and other the inhabitants of such cities and towns corporate and to the great protracting and delay of justice therein in the mean time: For reformation whereof and for the better advancement of justice in the premises;'

A Commission of the Peace and Gaol-delivery shall not be a Supersedeas to a former like Commission granted to a City or Town Corporate. 4 Inst. 169.

II. Be it therefore enacted by the King and Queen's Majesties, the Lords Spiritual and Temporal and the Commons in this present Parliament assembled, and by the authority of the same, That all and singular commission and commissions granted or to be granted to any such city or town corporate not being as is aforesaid a county in itself for the keeping of their peace and delivery of their prisoners remaining in the gaols of any such city or town corporate not being a county in itself, shall stand remain and be good and available and effectual in the law to all intents constructions and purposes; the granting of any like commission of peace or gaol delivery to any commissioner or commissioners for the conservation of the peace or delivery of the prisoners remaining in the gaol of any shire lathe rape riding or wapentake within this realm of *England*, bearing date after the said commission or commissions granted as is aforesaid to any such city or town corporate not being as is aforesaid a county in itself to the contrary notwithstanding.

9.

[No. XII.] 9 George I. c. 7.—An Act for amending the Laws relating to the Settlement, Employment, and Relief of the Poor. (1.)

9 George I. c. 7.

Justices dwelling out of a County may grant Warrants, &c.

III. AND for the greater ease of justices of the peace whom his Majesty or his successors hath or shall by commission authorize to act as a justice of the peace for any county of this realm, Be it enacted by the authority aforesaid, That if any such justice of the peace shall happen to dwell in any city or other precinct that is a county of itself situate within the county at large for which he shall be appointed justice of peace although not within the same county, it shall and may be lawful for any such justice of peace to grant warrants take examinations and make orders for any matters which any one or more justice or justices of the peace may act in, at his own dwelling-house, although such dwelling-house be out of the county where he is authorized to act as a justice of peace, and in some city or other precinct adjoining that is a county of itself; and that all such warrants orders and other act or acts of any justice of peace and the act or acts of any constable tithingman headborough overseer of the poor surveyor of the highways or other officer in obedience to any such warrant or order, shall be as valid good and effectual in the law although it happen to be out of the limits of the proper precinct or authority: Provided always, That nothing in this Act contained shall extend to give

(1.) This Act at length in Vol. 8.

power to the justices of peace for the counties at large to hold their general quarter sessions of the peace in the cities or towns which are counties of themselves, nor to empower justices of peace sheriffs bailiffs constables headboroughs tithingmen borsholders or any other peace officers of the counties at large to act or intermeddle in any matters or things arising within cities or towns which are counties of themselves, but that all such actings and doings shall be of the same force and effect in law and none other as if this Act had never been made.

No. XII. 9 Geo. I. c. 7.

[No. XIII.] 5 George II. c. 18.—An Act for the further Qualification of Justices of the Peace.

5 George II. c. 18.

'WHEREAS the constituting persons of mean estates to be justices of the peace may be highly prejudicial to the publick welfare;' Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the twenty-fifth day of *March* one thousand seven hundred and thirty-three no person shall be capable of being a justice of the peace or to act as a justice of the peace for any county within that part of *Great Britain* called *England* or the principality of *Wales* who shall not have an estate of freehold or copyhold to and for his own use and benefit in possession for life or for some greater estate either in law or equity or an estate for years determinable upon one or more life or lives or for a certain term originally created for one and twenty years or more in lands tenements or hereditaments lying in that part of *Great Britain* called *England* or principality of *Wales* of the clear yearly value of one hundred pounds over and above what will satisfy and discharge all incumbrances that may affect the same.

'Amended by 18 Geo. 2. c. 20.'

No Persons to be Justices who have not 100*l.* a year clear of Incumbrances.

II. And be it further enacted by the authority aforesaid, That no attorney solicitor or proctor in any court whatsoever shall from and after the said twenty-fifth day of *March* one thousand seven hundred and thirty-three be capable to continue or be a justice of the peace within any county for that part of *Great Britain* called *England* or the principality of *Wales* during such time as he shall continue in the business and practice of an attorney solicitor or proctor.

Attornies, Solicitors and Proctors incapacitated.

III. And be it further enacted by the authority aforesaid, That if any person who shall not be qualified according to the directions of this Act shall after the said twenty-fifth day of *March* one thousand seven hundred and thirty-three accept or take upon himself the office of a justice of the peace or shall do any act as such, the person so offending shall for every such offence forfeit and pay the sum of one hundred pounds; one moiety whereof shall be to the King's Majesty his heirs and successors, and the other moiety to such person or persons as will sue for the same by action of debt bill plaint or information in any of his Majesty's courts of record at *Westminster* in which no essoign protection wager of law or more than one imparlance shall be allowed.

Persons acting as Justices not so qualified, to forfeit 100*l.*

IV. Provided always, That this Act or any thing herein contained shall not extend or be construed to extend to any city or town being a county of itself or to any other city town cinque port or liberty having justices of the peace within their respective limits and precincts by charter commission or otherwise; but that in every such city town liberty and place such persons may be capable to be justices of the peace and in such manner only as they might have been if this Act had never been made; any thing herein-before contained to the contrary thereof in anywise notwithstanding.

Not to extend to Cities which are Counties, or other Places having Justices by Charter,

V. Provided always, That nothing in this Act contained shall extend to incapacitate any peer or lord of Parliament or the eldest son or heir apparent of any peer or lord of Parliament or of any person qualified to serve as knight of a shire by an Act, intituled "An Act to secure the Freedom of Parliaments by the further qualifying Members to sit in the House of Commons," to be a justice of the peace for any county or to act as

nor to the eldest Sons of Peers, or of Knights of Shires, 9 Ann, c. 5.

No. XIII.
5 Geo. II. c. 18.

such; any thing herein contained to the contrary thereof in anywise notwithstanding

VI Provided also, That nothing in this Act contained shall extend or be construed to extend to incapacitate or exclude the officers of the Board of Green Cloth from being justices of the peace within the verge of his Majesty's palaces or to incapacitate or exclude the commissioners and principal officers of the navy or the two under secretaries in each of the offices of principal secretary of state from being justices of the peace in and for such maritime counties and places where they usually have been justices of the peace. any thing herein contained to the contrary in anywise notwithstanding

nor to the Board of Green Cloth, or principal Officers of the Navy,

nor to Heads of Colleges in either University 7 Geo 2. c. 10. § 3.

VII. Provided always, That this Act nor any thing herein contained shall extend or be construed to extend to any of the heads of colleges or halls in either of the two universities of *Oxford* and *Cambridge*, but that they may be made justices of the peace of and in the several counties of *Oxford Berks* and *Cambridge* and the cities and towns within the same and execute the office thereof as fully and freely in all respects as heretofore they have lawfully used to execute the same as if this Act had never been made; any thing herein before contained to the contrary notwithstanding.

[No. XIV.] 16 George II. c. 18.—An Act to empower Justices of the Peace to act in certain Cases relating to Parishes and Places, to the Rates and Taxes of which they are rated or chargeable.

16 George II. c. 18.
15 Geo 2. c 24.

'WHEREAS doubts have arisen whether according to the laws and 'statutes now in force his Majesty's Justices of the Peace may law-'fully act in any case relating to the parishes or places to the rates and 'taxes of which such justices respectively are rated or chargeable' May it please your Majesty that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That it shall and may be lawful to and for all and every justice or justices of the peace for any county riding city liberty franchise borough or town corporate within their respective jurisdictions to make do and execute all and every act or acts matter or matters thing or things appertaining to their office as justice or justices of the peace so far as the same relates to the laws for the relief maintenance and settlement of poor persons; for passing and punishing vagrants; for repair of the highways, or to any other laws concerning parochial taxes levies or rates; notwithstanding any such justice or justices of the peace is or are rated to or chargeable with the taxes levies or rates within any such parish township or place affected by any such act or acts of such justice or justices as aforesaid.

No Act of Justices heretofore done, shall be made void, because themselves are rated.

II And be it further enacted by the authority aforesaid, That no act or acts matter or matters thing or things which hath or have been before the making this Act done made or executed by any such justice or justices of the peace shall hereafter be quashed or declared void because the same hath or have been so made done or executed by any such justice or justices so rated or chargeable as aforesaid; any law usage or custom whatsoever to the contrary notwithstanding.

III. Provided always and be it further enacted by the authority aforesaid, That this Act or any thing therein contained shall not authorise or empower any justice or justices of the peace for any county or riding at large to act in the determination of any appeal to the quarter sessions for any such county or riding from any order matter or thing relating to any such parish township or place where such justice or justices of the peace is or are so charged taxed or chargeable as aforesaid; any thing herein contained to the contrary in anywise notwithstanding.

[No. XV.] 18 George II. c. 20.—An Act to amend and render more effectual an Act passed in the Fifth Year of his present Majesty's Reign, intituled, "An Act for the further Qualification of Justices of the Peace."

No. XV.
18 Geo. II.
c. 20.

18 George II. c. 20.

'WHEREAS by many Acts of Parliament of late years made, the power and authority of justices of the peace is greatly increased, whereby it is become of the utmost consequence to the commonweal to provide against persons of mean estate acting as such: And whereas the laws now in force are not sufficient for that purpose;' Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the twenty-fifth day of *March* which shall be in the year of our Lord one thousand seven hundred and forty-six no person shall be capable of being a justice of the peace or of acting as such for any county riding or division within that part of *Great Britain* called *England* or the principality of *Wales* who shall not have either in law or equity to and for his own use and benefit in possession a freehold copyhold or customary estate for life or for some greater estate or an estate for some long term of years determinable upon one or more life or lives or for a certain term originally created for twenty-one years or more in lands tenements or hereditaments lying or being in that part of *Great Britain* called *England* or the principality of *Wales* of the clear yearly value of one hundred pounds over and above what will satisfy and discharge all incumbrances that affect the same and over and above all rents and charges payable out of or in respect of the same; or who shall not be seised of or entitled unto in law or equity to and for his own use and benefit the immediate reversion or remainder of and in lands tenements or hereditaments lying or being as aforesaid which are leased for one two or three lives or for any term of years determinable upon the death of one two or three lives upon reserved rents and which are of the clear yearly value of three hundred pounds; and who shall not before the said twenty-fifth day of *March* or before he takes upon himself to act as a justice of peace after the said twenty-fifth day of *March* at some general or quarter sessions for the county riding or division for which he does or shall intend to act, first take and subscribe the oath following, *videlicet;*

No Person to be a Justice of Peace not possessed of 100*l.* per Annum,

or not entitled to Reversion of 300*l.* per Annum,

and who shall not take and subscribe the following Oath.

'Amended by 19 Geo. 2. c. 13.'

'I *A. B.* do swear, That I truly and *bona fide* have such an estate in law or equity to and for my own use and benefit consisting of *(specifying the nature of such estate, whether messuage land rent tythe office benefice or what else)* as doth qualify me to act as a Justice of the Peace for the county riding or division of according to the true intent and meaning of an Act of Parliament made in the eighteenth year of the reign of his Majesty King *George* the Second, intituled "An Act to amend and render more effectual an Act passed in the Fifth Year of his present Majesty's Reign, intituled 'An Act for the further Qualification of Justices of the Peace;" and that the same *(except where it consists of an office benefice or ecclesiastical preferment which it shall be sufficient to ascertain by their known and usual names)* is lying or being, or issuing out of lands tenements or hereditaments being within the parish township or precinct of or in the several parishes townships or precincts of in the county of or in the several counties of *(as the case may be.)*'

Oath.

Which oath so taken and subscribed as aforesaid shall be kept by the clerk of the peace of the said county riding or division for the time being among the records of the sessions for the said county riding or division.

Oath to be recorded.

II. And be it further enacted by the authority aforesaid, That every such clerk of the peace shall upon demand for that purpose made forth-

Copy of Oath to be given for 2*s.*

No. XV.
18 Geo. II. c. 20.

and admitted in Evidence.

with deliver a true and attested copy of the said oath in writing to any person paying for the same the sum of two shillings and no more; which being proved to be a true copy of such oath to be kept amongst the records as aforesaid, shall be admitted to be given in evidence upon any issue in any action suit or information to be brought upon this Act.

Penalty of 100*l.*

III. And be it further enacted by the authority aforesaid, That from and after the said twenty-fifth day of *March* any person who shall act as a justice of the peace for any county riding or division within that part of *Great Britain* called *England* or the principality of *Wales* without having taken and subscribed the said oath as aforesaid, or without being qualified according to the true intent and meaning of this Act, shall for every such offence forfeit the sum of one hundred pounds; one moiety to the use of the poor of the parish in which he most usually resides, and the other moiety to the use of such person or persons who shall sue for the same, to be recovered together with full costs of suit by action of debt bill plaint or information in any of his Majesty's courts of record at *Westminster*, in which no essoign protection wager of law or more than one imparlance shall be allowed; and in every such action suit or information the proof of his qualification shall lie on such person against whom the same is brought.

Proof of Qualification on the Defendant.

Defendant to specify Lands, (not contained in his Oath), in a written Notice.

IV. Provided always and be it further enacted by the authority aforesaid, That if the defendant in any such action suit or information shall intend to insist upon any lands tenements or hereditaments not contained in such oath as aforesaid as his qualification to act as a justice of peace in part or in the whole at the time of the supposed offence wherewith he is charged, he shall at or before the time of his pleading deliver to the plaintiff or informer or his attorney a notice in writing specifying such lands tenements and hereditaments (other than those contained in the said oath) and the parish township precinct or place or parishes townships precincts or places and the county or counties wherein the same are respectively situate lying or being (offices and benefices excepted, which it shall be sufficient to ascertain by their known and usual names); and if the plaintiff or informer in any such action suit or information shall think fit thereupon not to proceed any further he may with the leave of the court discontinue such action suit or information on payment of such costs to the defendant as the court shall award.

Lands not mentioned not to be allowed.

V. Provided also and it is hereby further enacted by the authority aforesaid, That upon the trial of the issue in any action suit or information to be brought as aforesaid, no lands tenements or hereditaments which are not contained in such oath and notice as aforesaid or one of them shall be allowed to be insisted upon by the defendant as any part of his qualification.

Lands mentioned, how far chargeable with Incumbrances.

VI. And be it further enacted and declared by the authority aforesaid, Where the lands tenements or hereditaments contained in the said oath or notice are together with other lands tenements and hereditaments belonging to the person taking such oath or delivering such notice liable to any charges rents or incumbrances, that within the true intent and meaning and for the purposes of this Act the lands tenements and hereditaments contained in the said oath or notice shall be deemed and taken to be liable and chargeable only so far as the other lands tenements and hereditaments so jointly charged are not sufficient to pay satisfy or discharge the same.

Qualification by Rent only.

VII. Provided always, That where the qualification required by this Act or any part thereof consists of rent it shall be sufficient to specify in such oath or notice as aforesaid so much of the lands tenements or hereditaments out of which such rent is issuing as shall be of sufficient value to answer such rent.

Treble Costs.

VIII. Provided always and be it enacted by the authority aforesaid, That in case the plaintiff or informer in any such action suit or information shall discontinue the same otherwise than as aforesaid or be nonsuit or judgment be otherwise given against him, that then and in any of the said cases the person against whom such action shall have been brought shall recover treble costs.

No. XV. 18 Geo. II. c. 20.

IX. Provided always and be it further enacted by the authority aforesaid, That only one penalty of one hundred pounds shall be recovered from the same person by virtue of this Act or of an Act made in the fifth year of the reign of his present Majesty, intituled, "An Act for the further Qualification of Justices of the Peace," for the same or any other offence committed by the same person before the bringing of the action suit or information upon which one penalty of one hundred pounds shall have been recovered and due notice given to the defendant of the commencement of such action suit or information; any thing in this or the same Act to the contrary notwithstanding.

Only one Penalty recoverable by this and 5 Geo. 2. c. 58.

X. Provided always and be it enacted by the authority aforesaid, That where an action suit or information shall be brought and due notice given thereof as aforesaid, no proceedings shall be had upon any subsequent action suit or information against the same person for any offence committed before the time of giving such notice as aforesaid; but the court where such subsequent action suit or information shall be brought may upon the defendant's motion stay proceedings upon every such subsequent action suit or information so as such first action suit or information be prosecuted without fraud and with effect, it being hereby declared, That no action suit or information which shall not be so prosecuted shall be deemed or construed to be an action suit or information within the intent and meaning of this Act.

No subsequent Action to be for Offences prior to the first Action and Notice.

XI Provided always, That every action bill plaint or information given by this or the said former Act shall be commenced within the space of six calendar months after the fact upon which the same is grounded shall have been committed.

Limitation of Actions.

XII. Provided always, That this Act or any thing herein contained, shall not extend or be construed to extend to any city or town being a county of itself or to any other city town cinque-port or liberty having justices of the peace within their respective limits and precincts by charter commission or otherwise; but that in every such city town liberty and place such persons may be capable to be justices of the peace, and in such manner only as they might have been if this Act had never been made; any thing herein-before contained to the contrary thereof in anywise notwithstanding.

Places not within this Act.

XIII. Provided always and be it enacted by the authority aforesaid, That nothing in this Act or in an Act passed in the fifth year of his present Majesty's reign, intituled, "An Act for the further Qualification of Justices of the Peace," contained, shall extend to any Peer or Lord of Parliament or to the Lords or others of his Majesty's most honourable Privy Council, or to the Justices of either Bench, or to the Barons of the Court of Exchequer, or to his Majesty's Attorney or Solicitor General, or to the Justices of great sessions for the county palatine of *Chester* and the several counties of the principality of *Wales* within their respective jurisdictions, or to the eldest son or heir apparent of any Peer or Lord of Parliament, or of any person qualified to serve as a Knight of a Shire by an Act made in the ninth year of the reign of her late Majesty Queen *Anne*, intituled, "An Act to secure the Freedom of Parliaments, by the further qualifying Members to sit in the House of Commons;" any thing herein contained to the contrary thereof in anywise notwithstanding.

Persons excepted.

XIV. Provided also, That nothing in this Act or in the said Act of the fifth year of the reign of his present Majesty contained shall extend or be construed to extend to incapacitate or exclude the officers of the Board of Green Cloth from being justices of the peace within the verge of his Majesty's palaces, or to incapacitate or exclude the commissioners and principal officers of the Navy, or the two under secretaries in each of the offices of Principal Secretary of State, or the secretary of *Chelsea* College, from being justices of the peace in or for such counties or places where they usually have been justices of the peace; any thing herein contained to the contrary in anywise notwithstanding.

Persons excepted.

XV. Provided always, That this Act or any thing herein contained shall not extend or be construed to extend to any of the heads of colleges or halls in either of the two Universities of *Oxford* or *Cambridge* or to

Persons excepted.

No. XV.
18 Geo. II.
c. 20.

the vice chancellor of either of the said universities or to the mayor of the city of *Oxford* or of the town of *Cambridge*, but that they may be and act as justices of the peace of and in the several counties of *Oxford Berks* and *Cambridge* and the cities and towns within the same, and execute the office thereof as fully and freely in all respects as heretofore they have lawfully used to execute the same as if this Act had never been made; any thing herein-before contained to the contrary notwithstanding.

[No. XVI.] 24 George II. c. 55.—An Act for amending and making more effectual a Clause in an Act passed in the last Session of Parliament, for the apprehending of Persons in any County or Place upon Warrants granted by Justices of the Peace of any other County or Place.

24 George II. c. 55.
23 Geo 2. c. 26. § 11.

'WHEREAS by a clause in an Act made in the twenty-third year of his present Majesty's reign it is among other things therein enacted, That from and after the twenty-fourth day of *June* one thousand seven hundred and fifty, in case any person against whom a legal warrant shall be issued by any justice or justices of the peace for any county riding division city liberty town or place within this kingdom shall escape or go into any other county riding division city liberty town or place out of the jurisdiction of the justice or justices granting such warrant as aforesaid, it shall and may be lawful for any justice of the peace of the county riding division city liberty town or place to which such person shall have gone or escaped to indorse such warrant upon application made to him for that purpose, and to cause the person against whom the same shall have been issued to be apprehended and sent to the justice or justices who granted such warrant, or to some other justice or justices of the county riding division city liberty town or place from whence such person shall have gone or escaped, to the end that he or she may be dealt with according to law: And whereas such offender or offenders may reside or be in some other county riding division city liberty town or place out of the jurisdiction of the justice or justices granting such warrant as aforesaid, before the granting such warrant and without escaping or going out of the county riding division city liberty town or place after such warrant granted;' Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the twenty-fourth day of *June* one thousand seven hundred fifty-one, in case any person against whom a warrant shall be issued by any justice or justices of the peace of any county riding division city liberty town or place within this kingdom, shall escape go into reside or be in any other county riding division city liberty town or place out of the jurisdiction of the justice or justices granting such warrant as aforesaid, it shall and may be lawful for any justice or justices of the peace of the county riding division city liberty town or place where such person shall escape go into reside or be, and such justice or justices is and are hereby required upon proof being made upon oath of the hand writing of the justice or justices granting such warrant to indorse his or their name or names on such warrant, which shall be a sufficient authority to the person or persons bringing such warrant and to all other persons to whom such warrant was originally directed, to execute such warrant in such other county riding division city liberty town or place out of the jurisdiction of the justice or justices granting such warrant as aforesaid, and to apprehend and carry such offender or offenders before the justice who indorsed such warrant or some other justice or justices of such other county riding division city liberty town or place where such warrant was indorsed, in case the offence

Person being out of the Jurisdiction of the Justice, who shall grant a Warrant,

the Justice where such Person shall be to indorse the Warrant,

and the Offender to be apprehended and brought before a Justice where the Warrant was indorsed.

No. XVI.
24 Geo. III.
c. 55.

for which such offender shall be so apprehended in such other county riding division city liberty town or place as aforesaid shall be bailable in law, and such offender shall be willing and ready to give bail for his appearance at the next assizes or general gaol delivery or next general quarter sessions of the peace to be held in and for the county riding division city liberty town or place where the offence was committed, such justice or justices of such other county riding division city liberty town or place before whom such offender or offenders shall be brought shall and may take bail of such offender or offenders for his or their appearance at the next assizes or general gaol delivery, or at the next general quarter sessions of the peace to be held in and for the county riding division city liberty town or place where such offence was committed, in the same manner as the justices of the peace of the proper county riding division city liberty town or place should or might have done in such proper county riding division city liberty town or place; and the justice or justices of such other county riding division city liberty town or place so taking bail as aforesaid shall deliver the recognisance together with the examination or confession of such offender or offenders and all other proceedings relating thereto to the constable tythingman or other person or persons so apprehending such offender or offenders as aforesaid, who are hereby required to receive the same and to deliver over such recognisance examination and other proceedings to the clerk of assizes or clerk of the peace of the county riding division city liberty town or place where such offender or offenders is or are required to appear by virtue of such recognisance; and such recognisance examination or confession shall be as good and effectual in law to all intents and purposes and of the same force and validity as if the same had been entered into taken or acknowledged before a justice or justices of the peace in and for the proper county riding division city liberty town or place where the offence was committed, and the same proceedings shall be had thereon; and in case such constable tythingman or other person to whom such recognisance examination confession or other proceedings shall be so delivered as aforesaid shall refuse or neglect to deliver over the same to the clerk of assizes or clerk of the peace of the county riding division city liberty town or place where such offender is required to appear by virtue of such recognisance, such constable tythingman or other person shall forfeit the sum of ten pounds, to be recovered against him by bill plaint or information in any of his Majesty's courts at *Westminster*, by any person or person who will prosecute or sue for the same; wherein no essoign protection or wager of law shall be allowed, or more than one imparlance; and in case the offence for which such offender or offenders shall be apprehended and taken in any other county riding division city liberty town or place shall not be bailable in law, or such offender or offenders shall not give bail for his appearance at the next assizes or general gaol delivery or next general quarter sessions of the peace to be held in and for the county riding division city liberty town or place where the offence was committed, to the satisfaction of the justice before whom such offender or offenders shall be brought in such other county riding division city liberty town or place; then and in that case the constable tythingman or other person or persons so apprehending such offender or offenders shall carry and convey such offender or offenders before one of his Majesty's justices of peace of the proper county riding division city liberty town or place where such offence was committed, there to be dealt with according to law.

and to deliver the Recognizance, &c. to the Constable, to be delivered over.

Penalty on Constable not delivering over.

If Offence be not bailable,

Constable to carry Offenders before some Justice where Offence was committed.

II. And it is hereby enacted by the authority aforesaid, That no action of trespass false imprisonment information or indictment or other action shall be brought sued commenced or prosecuted by any person or persons whatsoever against the justice or justices who shall indorse such warrant for or by reason of his or their indorsing such warrant.

Justice indorsing the Warrant not liable to Action.

III. Provided nevertheless, That such person or persons shall be at liberty to bring or prosecute his or their action or suit against the justice or justices who originally granted such warrant, in the same man-

No. XVI.
24 Geo. II. c. 55.

ner as such person or persons might have done in case this Act had not been made.

IV. And it is hereby further enacted, That the said clause in the said recited Act and every thing in the said clause contained shall from and after the said twenty-fourth day of *June* be repealed.*

* Clause 23 Geo. 2. c. 26. § 12. repealed.

[No. XVII.] 26 George II. c. 14.—An Act for the settling and ascertaining the Fees to be taken by Clerks to Justices of the Peace.

26 George II. c. 14.

'WHEREAS some doubts have arisen touching the fees due to clerks of justices of the peace: And whereas it would tend to the due execution of the laws and to the ease of the subject, that the fees to be taken by the said clerks should be ascertained;' Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That the justices of the peace throughout that part of *Great Britain* called *England*, at their respective general quarter sessions of the peace to be held next after the twenty-fourth day of *June* one thousand seven hundred and fifty-three, shall and they are hereby required to make and settle a table of the fees which shall be taken by clerks to justices of the peace within the county city or other division for which such respective general quarter sessions shall be held; and such respective tables of fees being approved by the justices of the peace at the next succeeding general quarter sessions of the peace for such county city or other division, with such alterations as such justices of the peace so assembled shall think proper, shall be laid before the judges at the next assizes or at the great sessions for the principality of *Wales* and counties palatine of *Chester Lancaster* and *Durham* for the respective county city or other division; and the said judges are hereby authorised and required to ratify and confirm such respective tables of fees in such manner and form as the same shall be made settled and approved of by the said justices, or with such alterations additions or abatements as to such judges shall appear to be just and reasonable; and it shall and may be lawful for the said justices of the peace in their respective quarter sessions assembled from time to time to make any other table of fees to be taken instead of the fees contained in the table which shall have been ratified and confirmed by the judges of assize; and after the same shall have been approved by the justices of the peace at the next succeeding general quarter sessions in manner as aforesaid, to lay such new table of fees before the judges at the next assizes or at the great sessions for the principality of *Wales* and counties palatine of *Chester Lancaster* and *Durham*, who are hereby empowered and authorised to approve and ratify the same in manner as aforesaid if they think fit; but no table of fees to be made and settled by the said respective justices of peace, shall be of any validity or effect whatsoever until the same shall be ratified and confirmed by the said judges.

Justices to settle a Table of Fees to be taken by their Clerks;

to be ratified by the Judges of Assize.

Justices may make new Tables of Fees;

to be ratified in the same Manner.

By 27 Geo. 2. c. 16. the Table in Middlesex is to be ratified by Chief Justices, &c.

II. And be it further enacted by the authority aforesaid, That if at any time after the space of three calendar months from the time that such table of fees shall be made and ratified as aforesaid, any clerk or clerks to any justice or justices of the peace or any person or persons acting as such shall, under pretence of any matter or thing done transacted or performed by such justice or justices in the execution of his or their office or offices, or done transacted or performed by such person or persons as clerk or clerks to such justice or justices, demand or receive any other or greater fee than shall have been ascertained ratified and confirmed in manner as aforesaid, such person shall for every such offence forfeit and pay twenty pounds to any person who shall sue for the same by action of debt bill plaint or information in any of his Majesty's courts of record at *Westminster*, wherein no essoign privilege protection wager of law or more than one imparlance shall be granted or allowed.

Penalty of 20*l.* on Clerks taking other Fees.

III. And be it further enacted by the authority aforesaid, That all the tables of fees which shall be made and settled and ratified and confirmed from time to time as aforesaid shall be deposited with the clerk of the peace for the respective county city or other division; and each of the said clerks of the peace shall cause true and exact written or printed copies of the said tables to be placed and to be kept constantly in a conspicuous part of the room or place where the general or quarter sessions shall be held; under pain of forfeiting the sum of ten pounds for each offence, to be recovered by action of debt bill plaint or information in any of his Majesty's courts of record at *Westminster*, wherein no essoign privilege protection wager of law or more than one imparlance shall be granted or allowed.

No. XVII. 26 Geo. II. c. 14.

Tables of the Fees to be deposited with the Clerks of the Peace,

and Copies thereof to be placed in the Room where the Sessions are held, under Penalty of 10*l.*

IV. Provided always and be it further enacted by the authority aforesaid, That all suits and actions which shall be brought or commenced by virtue of this Act shall be brought before the end of three months after the offence committed, and not otherwise.

Limitations of Actions.

[No. XVIII.] 26 George II. c. 27.—An Act to confirm certain Acts and Orders made by Justices of the Peace, being of the *Quorum*, notwithstanding any Defect in not expressing therein that such Justices of the Peace are of the *Quorum*.*

'WHEREAS authority is given by divers Acts of Parliament to two or more justices of the peace whereof one or more are to be of the *quorum*: And whereas divers acts orders adjudications warrants confirmations of indentures and other instruments done made and executed by two or more justices of the peace without expressing that they are or that one of them is of the *quorum* have been and may be for that reason only impeached set aside and vacated;' Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the twenty-fourth day of *June* in the year one thousand seven hundred and fifty-three no Act order adjudication warrant indenture of apprenticeship or other instrument already made done or executed or hereafter to be made done or executed by two or more justices of the peace which doth not express that one or more of the justices is or are of the *quorum* shall be impeached set aside or vacated for that defect only; any law statute or usage to the contrary notwithstanding.

26 George II. c. 27.

* By 27 Geo. II. c. 16. the Table of Fees for *Middlesex* is to be confirmed by the two Chief Justices and Chief Baron, or any two of them.

[No. XIX.] 1 George III. c. 13.—An Act to amend an Act passed in the Eighteenth Year of the Reign of King *George* the Second, concerning the Qualification of Justices of the Peace; and for other Purposes therein mentioned.

'WHEREAS by an Act of Parliament made in the eighteenth year of his late Majesty King *George* the Second of glorious memory, intituled "An Act to amend and render more effectual an Act passed in the fifth year of his present Majesty's reign, intituled 'An Act for the further Qualification of Justices of the Peace;'" it was enacted, That from and after the twenty-fifth day of *March* one thousand seven hundred and forty-six no person should be capable of being a justice of the peace or of acting as such for any county riding or division within that

1 George III. c. 13.

18 Geo. 2. c. 20. See 5 Geo. 2. c. 18.

No. XIX.
1 Geo. III. c. 13.

'part of *Great Britain* called *England* or the principality of *Wales*, who should not have either in law or equity to and for his own use and benefit in possession a freehold copyhold or customary estate for life or for some greater estate, or an estate for some long term of years determinable upon one or more life or lives, or for a certain term originally created for twenty-one years or more in lands tenements or hereditaments lying or being in that part of *Great Britain* called *England* or the principality of *Wales* of the clear yearly value of one hundred pounds over and above what should satisfy and discharge all incumbrances that affect the same, and over and above all rents and charges payable out of or in respect of the same, or who should not be seised of or intitled unto in law or equity to and for his own use and benefit the immediate reversion or remainder of and in lands tenements or hereditaments lying or being as aforesaid, which were leased for one two or three lives or for any term of years determinable upon the death of one two or three lives upon reserved rents and which were of the clear yearly value of three hundred pounds; and who should not before he takes upon himself to act as a justice of peace after the said twenty-fifth day of *March* at some general or quarter sessions for the county riding or division for which he did or should intend to act first take and subscribe the oath in the said Act mentioned; which oath so taken and subscribed as aforesaid should be kept by the clerk of the peace for the said county riding or division for the time being among the records of the sessions for the said county riding or division And it was by the said Act further enacted, That from and after the said twenty-fifth day of *March* any person who should act as a justice of the peace for any county riding or division within that part of *Great Britain* called *England* or the principality of *Wales* without having taken and subscribed the said oath as aforesaid or without being qualified according to the true intent and meaning of the said Act should for every such offence forfeit the sum of one hundred pounds, to be recovered with full costs of suit and applied in the manner in the said Act mentioned: And whereas doubts have arisen whether persons who were justices of the peace at the time of the demise of his said late Majesty King *George* the Second and who have been or shall be constituted justices of the peace by or under any commission of the peace granted or which shall be granted by his present Majesty can act as justices of the peace and open and hold any general or quarter sessions of the peace before they shall have taken and subscribed the said oath in manner and at the place as by the said in part recited Act is directed and required, for want of which there may be a failure of the due execution of the laws of this realm:' Now for clearing such doubts and preventing any inconveniences that may arise; Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That all persons who were justices of the peace at the time of the demise of his said late Majesty King *George* the Second, or who shall be justices of the peace at the time of the demise of his present Majesty or any of his successors Kings or Queens of this realm, and shall afterwards be appointed justices of the peace by any commission granted or which shall be granted by his said present Majesty, or which after his demise shall be granted by any of his successors Kings or Queens of this realm, and who shall take the oaths of office of a justice of the peace for any county city and county town and county riding or division before the clerk of the peace of the respective county city and county town and county riding or division for which any such justice or justices of the peace shall act or intend to act, or the deputy of such respective clerk of the peace, and who shall have taken and subscribed at some general or quarter session of the peace the said oath by the said herein-before in part recited Act of the eighteenth year of his said late Majesty's reign directed and required to be there taken and subscribed, shall and may act as a justice

All who were Justices at the Demise of the late King, or shall be such at the Demise of his present Majesty, &c. and being afterwards in the Commission of the Peace, shall take the Oaths of Office before the Clerk of the Peace; and those who shall have taken and subscribed at the Quarter Sessions the Oath required by the recited Act of 18 G. 2. may act as Justice, without taking and subscribing again the Oath aforesaid.

No. XIX.
1 Geo. III. c. 13.

of the peace for such county city and county town and county riding or division without being obliged to take and subscribe again the said oath without incurring any penalty or forfeiture for the not taking and subscribing thereof; the said herein-before in part recited Act or any other statute law or usage to the contrary thereof in any wise notwithstanding: And that all acts matters and things done or to be done by all and every such justice and justices or by authority derived or to be derived from him or them are and shall be deemed and taken to all intents and purposes to be of the same force effect and validity to all intents and purposes as the same respectively would have been if such person or persons had taken and subscribed such oath by the said herein-before in part recited Act required to be taken and subscribed at some general or quarter session for such county city and county town and county riding or division for which he or they did or should act or intend to act.

II. And be it further enacted by the authority aforesaid, That from and after the passing of this Act no person who hath already taken or shall hereafter take the oaths usually taken by a justice of the peace under a writ or commission of *Dedimus Potestatem*, issued or which shall be issued from the clerk of the Crown, shall be obliged or compellable to sue out or have any other *Dedimus Potestatem* from the said clerk of the Crown to authorise any person or persons therein to be named to administer again to any such justice on any new commission of the peace being issued under the great seal of *Great Britain* for any county city and county town and county riding or division in *England* or *Wales* the oaths usually annexed to such *Dedimus* and taken by a justice of the peace; but that the clerk of the peace or his deputy of every county city and county town and county riding or division in *England* and *Wales* for which any such justice of the peace hath already acted and qualified or hereafter before the issuing any such new commission of the peace shall act and qualify himself as before-mentioned shall on every such new commission of the peace being issued prepare a parchment roll with the oaths annexed to and usually taken under the said writ or commission of *Dedimus Potestatem* by justices of the peace ingrossed on such roll, and shall administer without fee or reward the oaths in such roll specified to every such justice of the peace within the respective counties cities and counties towns and counties ridings or divisions for which he shall respectively act or intend to act and who shall desire to take such oaths; and that every such justice of the peace after the taking the oaths contained in the said roll shall subscribe his name on the said parchment roll; and the said roll with the oaths so taken and subscribed shall be kept by the respective clerks of the peace of the respective counties cities and counties towns and counties ridings and divisions in *England* and *Wales* for the time being amongst the records of the sessions for the said respective counties cities and counties towns and counties ridings and divisions.

Such as have once taken the usual Oaths under a Writ of Dedimus Potestatem are exempted from suing out another Writ for administering again the said Oaths to them as Justices; but upon every new Commission a Roll, with the Oath annexed, is to be prepared, which all Justices, as they qualify themselves, are to subscribe; and the said Rolls are to be preserved amongst the Records of the Sessions.

[No. XX.] 7 George III. c. 9.—An Act for obviating Doubts which have arisen with respect to so much of an Act made in the First Year of the Reign of his present Majesty, intituled (An Act to amend an Act passed in the Eighteenth Year of the Reign of King *George* the Second, concerning the Qualification of Justices of the Peace, and for other Purposes therein mentioned,) as directs the taking of certain Oaths by Justices of the Peace, on the issuing of any new Commission of the Peace.

7 George III. c. 9.
1 Geo. 3. c. 13.

'WHEREAS doubts have arisen with respect to the construction of so much of an Act made the first year of the reign of his present Majesty, intituled (An Act to amend an Act passed in the Eighteenth Year of the Reign of King *George* the Second, concerning the Qualifica-

No. XX. 7 Geo. III. c. 9.

Justices not obliged to take and subscribe the Oaths more than once during, &c.

'tion of Justices of the Peace and for other Purposes therein mentioned) 'as relates to the taking of certain oaths by justices of the peace on the 'issuing of new commissions of the peace;' Be it therefore enacted and declared by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That all persons who have been or shall be appointed justices of the peace by any commission or commissions granted or to be granted by his present Majesty, and have taken and subscribed or shall take and subscribe the oaths mentioned in the said Act made in the first year of his present Majesty's reign; and all persons who shall be appointed justices of the peace by any commission or commissions which shall be granted after his Majesty's demise by any of his successors Kings or Queens of this realm, and shall have after the issuing of the first commission whereby such persons shall be appointed justices of the peace in the reign of any such King or Queen taken and subscribed the said oaths, shall not be obliged during the reign of his present Majesty, or during any future reign in which such oaths shall have been so taken and subscribed as aforesaid, to take and subscribe the same oaths for or by reason of such persons being again appointed justices of the peace by any subsequent commission or commissions which shall be granted during any such reign; and shall not incur any penalty or forfeiture for the not taking or subscribing the said oaths.

[No. XX. *a.*] 7 George III. c. 21.—An Act to obviate Inconveniences which may arise with respect to the Execution of several Acts of Parliament in such Cities, Boroughs, Towns Corporate, Franchises, and Liberties, as have only One Justice of the Peace of the Quorum qualified to act within the same.

7 George III. c. 21.

Preamble.

WHEREAS authority is given by divers Acts of Parliament to two or more justices of the peace, whereof one or more are to be of the quorum: And whereas many inconveniences have arisen in such cities boroughs towns corporate franchises and liberties as have only one justice of the peace of the quorum qualified to act within the same: Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same, That from and after the passing of this present Act all acts orders adjudications warrants indentures of apprenticeship or other instruments which shall be made done or executed by virtue of any Act or Acts of Parliament made or to be made by two or more justices of the peace qualified to act within such cities boroughs towns corporate franchises and liberties, though neither of the said justices are of the quorum, shall be valid and effectual in law to all intents and purposes as if one of the said justices had been of the quorum; any law statute or usage to the contrary notwithstanding.

Two or more Justices, though not of the Quorum, empowered to carry certain Acts into Execution.

[No. XX. *b.*]. 15 George III. c. 39.—An Act to empower Justices of the Peace to administer Oaths where any Penalty is to be levied, or Distress to be made, in pursuance of any Act of Parliament, wherein the same is not expressly directed.

15 George III. c. 39.

Preamble.

WHEREAS it is frequently necessary for justices of the peace to administer oaths or affirmations where penalties are to be levied or distresses to be made in pursuance of Acts of Parliament, which they have no power to administer unless authorised so to do by such Acts respectively; May it therefore please your Majesty that it may be

enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That in all cases where any penalty is directed to be levied or distress to be made by any Act of Parliament now in force or hereafter to be made, it shall and may be lawful for any justice or justices acting under the authority of such Acts respectively, and he and they is and are hereby authorised and empowered to administer an oath or oaths affirmation or affirmations to any person or persons for the purpose of levying such penalties or making such distresses respectively.

No. XX. *b.* 15 Geo. III. c. 39.

In all Cases where Penalties, &c. are directed to be levied under Acts, Justices are empowered to administer Oaths, &c. for levying such Penalties, &c.

[No. XXI.] 28 George III. c. 49.—An Act to enable Justices of the Peace to act as such, in certain Cases, out of the Limits of the Counties in which they actually are.

28 George III. c. 49.

Preamble.

'WHEREAS the administration of justice is frequently obstructed for want of resident justices of the peace, and might be much furthered in case the justices acting for two or more adjoining counties are enabled to act for the same, if personally present in either of those in which they act;' For remedy whereof in future, May it please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act it shall and may be lawful for any justice or justices of the peace acting as such for any two or more counties being adjoining counties to act as a justice or justices of the peace in all matters and things whatsoever, concerning or in any wise relating to any or either of the said counties, and that all act and acts of such justice or justices of the peace and the act and acts of any constable or other officer in obedience thereto shall be as valid good and effectual in the law to all intents and purposes whatsoever as if such act or acts of the said justice or justices had been done in the county or counties to which such act or acts more particularly relate; and all constables and other officers of the said county or counties to which such act or acts relate are hereby authorised and required to obey the warrants orders directions act and acts of such justice or justices so granted given and done, and to do and perform their several offices and duties under the pains and penalties to which any constable or other officer may be liable for a neglect of duty: Provided always, That such justice or justices be personally resident in one of the said counties at the time of doing such act or acts: Provided also, That the warrants orders or directions so to be given and granted, be directed and given in the first instance to the constable or other officer of the county to which the same more particularly relate.

Justices may act for two adjoining Counties.

if they reside in either at the Time of acting.

II. And be it further enacted by the authority aforesaid, That from and after the passing of this Act it shall and may be lawful for any constable tythingman headborough or other peace officer, or any other person or persons apprehending or taking into custody any person or persons offending against law, and whom they lawfully may and ought to apprehend and take into custody by virtue of his or their office or offices or otherwise howsoever, to convey and take the person or persons so apprehended or taken into custody as aforesaid to any justice or justices of the peace acting for the said county and resident in such adjoining county as aforesaid; and the said constables tythingmen headboroughs and other peace officers and all and every other person or persons are hereby authorised empowered and required in all such cases so to act in all things as if the said justice or justices of the peace was or were resident within the said county to which they respectively belong; and all and every person or persons obstructing or hindering the said constables tything-

Constables, &c. may carry Offenders before Justices acting for the County, and resident in the adjacent County, &c.

No. XXI.
28 Geo. III. c. 49.

men headboroughs or other peace officers in the execution of their respective offices in the said county or counties adjoining as aforesaid shall be and are hereby made liable to the same pains and penalties for such obstruction and hindrance of the said officers in the execution of their respective offices as if the same had been committed in the county for which the said constables tythingmen headboroughs or other peace officers were appointed to act.

Sheriffs, &c. may convey Offenders through adjoining Counties to the Gaol of the County where the Offence was committed.

III. And be it further enacted by the authority aforesaid, That from and after the passing of this Act it shall and may be lawful for any sheriff or other person or persons deputed by him or acting under his authority, constable headborough tythingman or other peace officer, or any other person or persons lawfully taking into or having in his or their custody respectively any person or persons offending against law and whom he or they may or might lawfully convey to gaol or any place of safe custody, to convey or take the said person or persons so in custody as aforesaid into and through any part or parts of the said county or counties so adjoining in their way to such gaol or place of safe custody within the county wherein such offence was done or committed; and all and every person or persons escaping from such custody as aforesaid, or aiding or assisting such escape or escapes, or rescuing such person or persons so in custody as aforesaid, shall be subject to the like pains and penalties for such escape or escapes, and for such aid and assistance so given as aforesaid, and for such rescue and rescues, as if the said escape or escapes had happened or such aid and assistance had been given or such rescue or rescues made in the county wherein such offence was done or committed.

9 Geo. I. c. 7.

Justices for Counties at large may act as such within any City being a County of itself, situate therein or adjoining to such County;

IV. 'And whereas by an Act passed in the ninth year of the reign of 'King *George* the First, intituled, "An Act for amending the Laws 'relating to the Settlement Employment and Relief of the Poor," provi- 'sion is made for enabling justices of the peace dwelling in any city or 'other precinct, being a county of itself situate within a county at large, 'to act as such justices for the county at large at certain places within 'such city town or other precinct: And whereas such provisions have 'been found beneficial to the public, but doubts have arisen with respect 'to the construction of the said Act in certain cases; For the removing 'whereof' Be it enacted, That from and after the passing of this Act it shall and may be lawful for any justice or justices of the peace acting for any county at large to act as such at any place within any city town or other precinct, being a county of itself and situate within surrounded by or adjoining to any such county at large; and that all and every such act and acts matters and things done by such justice or justices of the peace for the said county at large within such city town or other precinct shall be as valid and effectual in the law as if the same had been done within the said county at large to all intents and purposes whatsoever: Provided always, That nothing in this Act contained shall extend to give power to the justices of the peace for any county at large not being justices for such city town or other precinct, or any constable or other officer acting under them, to act or intermeddle in any matters or things arising within any such city town or precinct in any manner whatsoever.

but are not to act in Matters arising within such City, if they are not also Justices for the same.

[No. XXII.] 33 George III. c. 55.—An Act to authorize Justices of the Peace to impose Fines upon Constables, Overseers, and other Peace or Parish Officers, for Neglect of Duty, and on Masters of Apprentices for ill Usage of such their Apprentices; and also to make Provision for the Execution of Warrants of Distress granted by Magistrates.—[21*st June* 1793.]

[Inserted ante, title *Apprentices.*]

[No. XXIII.] 41 George III. c. 85.—An Act for better Payment of Fines and Forfeitures imposed by Justices out of Session, in *England*.—[27*th June*, 1801.]

No. XXIII. 41 Geo. III. c. 85.

41 George III. c. 85.

FOR the better bringing to account and making payment of such share of fines forfeitures and penalties due to his Majesty which are not by law payable to any particular persons commissioners or others levied before justices of the peace acting out of session; Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act it shall be lawful for every justice of the peace acting out of session for any county riding city borough division or place in *England* to receive all fines forfeitures and penalties imposed by him or any other justice of the peace as aforesaid acting out of sessions and not made payable to any body or bodies corporate or any commissioners of any publick boards or any other person or persons and to give receipts for the same, which receipts shall be a sufficient discharge to the parties by whom the said fines shall be payable; and every such justice shall by himself or clerk keep an account in a book, to be provided for that purpose, of the amount of every fine forfeiture or penalty which shall have been set or imposed by any adjudication or order made by every such justice, specifying the place and time and manner of such adjudication or order the nature of the offence and the Act or Acts under which the same was adjudged and the name or names of the person or persons on whom such fine forfeiture or penalty was set or imposed; distinguishing whether the same was paid or levied and what part or share thereof, if any, has been or shall be paid or payable to any body or bodies corporate commissioners or person or persons, with the name and description of such body or bodies commissioners person or persons and the authority under which he she or they claimed such part or share; and shall annually, previous to the *Michaelmas* session, pay into the hands of every sheriff of the county or city and town and county having a separate sheriff, for which such justice shall have acted in imposing such fines, all such fines forfeitures or penalties or the parts or shares of such fines forfeitures or penalties as shall be due to his Majesty his heirs or successors; and the sheriff or his under sheriff is hereby required to give an acquittance for the same, which shall be a full discharge to every such justice his heirs executors and administrators for such fines forfeitures or penalties or parts or shares thereof.

Justices in England out of Session may receive and give Receipts for Fines and Forfeitures not payable to any Body Corporate, &c. or other Person, and shall enter Accounts thereof, and pay the Amount annually to the Sheriff of the County.

II. And be it further enacted, That any justice of the peace shall, previous to the *Michaelmas* sessions, annually transmit to the clerk of the peace of the county city or town or clerk of the town within which such fine forfeiture or penalty shall have been imposed an account in writing, stating the several fines forfeitures and penalties which have been imposed by him and shewing which have been received by him and from whom and for what offences; which account the clerk of the peace or town clerk shall enter in his estreats with the names of the justices, that the sheriff may be charged with the same in his apposal before the foreign apposer, to the end that the same may be set over and answered to the Crown in like manner as in the case of fines and forfeitures set or imposed at any session of the peace.

The Justices shall also transmit Accounts of such Fines and Forfeitures to the Clerk of the Peace, &c. that the Sheriff may be charged therewith, &c.

III. And be it further enacted, That as often as two or more justices shall act together in setting or imposing any fine forfeiture or penalty, then the said account shall be kept and a copy of it shall be delivered or transmitted and the payment as aforesaid shall be made by such one of the said two or more justices as shall reside at or near the place where such adjudication or order was made or at or nearest the place where such general quarter sessions shall be held.

Where two Justices shall impose Fines, Account shall be kept, &c. and Payment made by the Resident Justice.

IV. And be it further enacted, That the said several clerks of the peace

Constables on receiving Accounts of such Fines from Clerk of the Peace shall give Notice to the Persons entitled thereto.

No. XXIII.
41 Geo. III. c. 85.

or town clerks or their deputies shall, within ten days next after any such general quarter sessions of the peace in which such justice shall have returned any conviction as aforesaid, deliver to the bailiff or chief constable of the district where any person shall reside who shall by law be entitled to any share or proportion of any fines forfeitures or penalties which shall have been had and received by any such justice as aforesaid, an account in writing of such fines forfeitures and penalties; which bailiff or chief constable shall transmit an account thereof to the petty constable of the parish township or place where such person shall reside, that notice may be given to the person so entitled that he may without delay apply to such justice for his share of such fine forfeiture or penalty.

Act shall not prevent Officers of the Crown from allowing Fines as heretofore, &c.

V. Provided always, That nothing in this Act shall be construed to extend to prevent the officers of the Crown from allowing any fines forfeitures or penalties levied by justices of the peace for justices' wages, in the same manner as other fines are now allowed by law; and provided also, that it shall be lawful for sheriffs or any other persons empowered to allow the same to have an allowance of the same poundage on the balance of such fines charged on them after an allowance for justices' wages, in like manner as for fines at the assizes.

Nor to the Payment of Fines in any of the seven Publick Offices, under 32 Geo. 3. c. 53.

VI. And be it further enacted, That nothing herein contained shall be construed to prevent the payment to the receiver of fines penalties and forfeitures by the justices or their clerks in any of the seven publick offices appointed by virtue of an Act passed in the thirty-second year of his present Majesty's reign, intituled, "An Act for the more effectual Administration of the Office of a Justice of the Peace in such parts of the Counties of *Middlesex* and *Surrey* as lie in and near the Metropolis, and for the more effectual Prevention of Felonies."

[No. XXIV.] 57 George III. c. 91.—An Act to enable Justices of the Peace to settle the Fees to be taken by the Clerks of the Peace of the respective Counties and other Divisions of *England* and *Wales*.—[10*th July* 1817.]

57 Geo. III. c. 91.

WHEREAS doubts have arisen touching the fees and allowances due and to be made to the clerks of the peace of the several counties and other divisions in *England* and *Wales*; for the removing of such doubts, Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the first day of *July* next it shall and may be lawful to and for the justices of the peace for the county of *Kent* and for the county palatine of *Lancaster*, at their annual general sessions of the peace, and for the justices of the peace in every other county riding division city town liberty or precinct within *England* and *Wales*, at their respective general quarter sessions of the peace, to ascertain make and settle a table of fees and allowances to be taken by the clerk of the peace for such county of *Kent* and such county palatine and such other counties ridings divisions cities towns liberties and precincts respectively; and such table of fees and allowances when so made shall be subject to the approbation of the justices of the peace at the then next succeeding general annual session of the peace for the county palatine of *Lancaster* and for the county of *Kent*, and at the then next succeeding general quarter session of the peace for every other such county riding division city town liberty or precinct as aforesaid, or at some adjournment of such sessions respectively; and such table of fees respectively when so approved respectively shall be laid before the judges of assize at the next assizes for such counties and places respectively, except the several places being counties in which assizes are not constantly or regularly holden in every year, and in those cases before the justices at the next assizes for the adjoining county where assizes are constantly and regularly holden, and to which prisoners

Justices of Peace, at their Annual General and General Quarter Sessions, to settle a Table of Fees to be taken by the Clerks of the Peace for the Counties of England and Wales.

are generally removed for trial from such places respectively, and also except the counties in *Wales* and the county palatine of *Chester*, and before the justices at the next great sessions for the several counties in *Wales* and for the county palatine of *Chester*; and the said judges and justices respectively are hereby authorized to ratify and confirm such tables respectively either as settled and approved as aforesaid or with such alterations additions and improvements as to such judges and justices last mentioned shall appear to be just and reasonable; and it shall be lawful for the said justices of the peace at their respective quarter or general sessions of the peace from time to time in like manner to make other table of fees and allowances instead of or in addition to the tables of fees and allowances before made, which shall and may be approved and afterwards ratified and confirmed in like manner; which fees and allowances contained in such tables respectively when so made and approved and afterwards ratified and confirmed as aforesaid, shall be the only fees and allowances which shall be taken by the clerks of the peace of the several counties and places for which such tables respectively shall be so made approved ratified and confirmed from and after such ratification and confirmation thereof respectively; any thing in any Act or Acts of Parliament or any law usage or custom to the contrary in anywise notwithstanding.

Penalty on Clerks of the Peace taking greater Fees than allowed.

II. And be it further enacted, That if at any time after any such table of fees and allowances shall have been so ratified and confirmed as aforesaid any clerk of the peace or any person or persons acting as such shall under pretence of any matter or thing done transacted or performed demand or receive any other or greater fee or allowance than the fee or allowance fees or allowances ascertained ratified and confirmed as aforesaid, such clerk of the peace or other person shall for every such offence forfeit and pay the sum of five pounds to any person who shall sue for the same by action of debt bill plaint or information in any of his Majesty's courts of record at *Westminster*, wherein no essoign privilege protection wager of law or more than one imparlance shall be granted or allowed.

Printed or written Copies of such Table of Fees to be hung up in some conspicuous Place where the General or Quarter Sessions shall be held; and Penalty on Clerks of the Peace neglecting so to do.

III. And be it further enacted, That every table of fees and allowances which shall be made approved ratified and confirmed from time to time as aforesaid shall be deposited with the clerk of the peace for the county or place for which such table of fees shall have been so made approved ratified and confirmed as aforesaid; and a true and exact written or printed copy or copies thereof shall be placed and constantly kept in a conspicuous part of every room or place wherein any general or quarter sessions of the peace for such county or place shall be held; and if any clerk of the peace or person acting as such shall at any time neglect to cause every such copy to be so placed and constantly kept according to the provisions of this Act, he shall forfeit and pay to any person who shall sue for the same for every such offence the sum of five pounds, to be recovered by action of debt bill plaint or information in any of his Majesty's courts of record at *Westminster*, wherein no essoign privilege protection wager of law nor more than one imparlance shall be granted or allowed.

Limitation of Actions.

IV. And be it further enacted, That all suits and actions which shall be brought or commenced by virtue of this Act shall be brought before the end of three calendar months after the offence committed and not otherwise.

[No. XXV.] 59 George III. c. 92.—An Act to enable Justices of the Peace in *Ireland* to act as such in certain Cases out of the Limits of the Counties in which they actually are; to make Provision for the Execution of Warrants of Distress granted by them; and to authorise them to impose Fines upon Constables and other Officers for Neglect of Duty, and on Masters for Ill Usage of their Apprentices.—[12*th July* 1819.]

No. XXVI.
1 Geo. IV.
c. 66.

[No. XXVI.] 1 Geo. IV. c. 66.—An Act to continue, until the end of the next Session of Parliament, Two Acts of the 54th Year of his late Majesty for the more effectual Administration of the Office of a Justice of the Peace in and near the Metropolis, and for the Prevention of Depredations on the *River Thames.*—[15*th July* 1820.]

[No. XXVII.] 1 & 2 George IV. c. 63.—An Act to amend an Act, made in the Twenty-eighth Year of the Reign of King *George* the Third, intituled *An Act to enable Justices of the Peace to act as such, in certain Cases, out of the Limits of the Counties in which they actually are.* —[2*d July* 1821.]

1 & 2 Geo. IV. c. 63.
28 Geo. 3. c. 49.

WHEREAS by an Act of Parliament passed in the twenty-eighth year of the reign of King *George* the Third, intituled *An Act to enable Justices of the Peace to act as such, in certain Cases, out of the Limits of the Counties in which they actually are,* it was enacted, that it should and might be lawful for any justice or justices of the peace acting for any county at large to act as such at any place within any city town or precinct being a county of itself and situate within surrounded by or adjoining to any such county at large; and that all and every such act and acts matters and things done by such justice or justices of the peace for the said county at large within such city town or other precinct should be as valid and effectual in the law as if the same had been done within the said county at large, to all intents and purposes whatsoever: And whereas doubts have been entertained whether justices of the peace for counties at large are thereby empowered to act for such counties at large within any city town or other precinct having exclusive jurisdiction but not being a county of itself; Be it therefore enacted and declared by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That it shall and may be lawful for any justice or justices of the peace acting for any county at large or for any riding or division of a county in which there are several and distinct commissions of the peace to act as a justices or justice for such county at large riding or division in sessions or otherwise at any place within any city town or other precinct having exclusive jurisdiction but not being a county of itself and situate within surrounded by or adjoining to any such county at large riding or division; and that all and every such act and acts matters and things which shall be done or which may heretofore have been done by such justice or justices of the peace for the said county at large riding or division within such city town or other precinct shall be as valid and effectual in the law as if the same had been done within the said county riding or division to all intents and purposes whatsoever: Provided always, That nothing in this Act contained shall extend to give power to the justices of the peace for any county at large riding or division not being justices for such city town or other precinct, or any constable or other officer acting under them to act or intermeddle in any matters or things arising within any such city town or precinct in any manner whatsoever.

Justices of the Peace, acting for any County at large, &c. may act as such in Places having exclusive Jurisdiction within or adjoining such County:

Proviso.

[No. XXVIII.] 1 & 2 George IV. c. 118.—An Act for the more effectual Administration of the Office of a Justice of the Peace in and near the Metropolis; and for the more

effectual Prevention of Depredations on the River *Thames* and its Vicinity, for one Year.—[10*th July* 1821.]

No. XXVIII.

1 & 2 Geo. IV. c. 118.

WHEREAS two Acts were made in the fifty-fourth year of his late Majesty's reign, the one intituled *An Act for repealing an Act made in the Fifty-first Year of his present Majesty for the more effectual Administration of the Office of a Justice of the Peace in such Parts of the Counties of* Middlesex *and* Surrey *as lie in or near the Metropolis; and for making other Provisions in lieu thereof; to continue in force until the First Day of* June *One thousand eight hundred and twenty, and from thence until the Expiration of Six Weeks from the Commencement of the then next Session of Parliament;* and the other, intituled *An Act to revive and continue until the First Day of* June *One thousand eight hundred and twenty, and to amend several Acts for the more effectual Prevention of Depredations on the River* Thames *and its Vicinity;* both which Acts were by an Act of the last session of Parliament continued in force until the end of the present session of Parliament: And whereas it is expedient that the provisions of the said Acts should be consolidated and amended; and that one of the police offices established by the said first recited Act should be removed to a more convenient site: May it therefore please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That the said two Acts of the fifty-fourth year aforesaid shall be and the same are hereby continued in force until and upon the fifth day of *July* one thousand eight hundred and twenty-one and be then repealed; and that the provisions of this Act shall thenceforth commence and continue in force for the term of one year.

1 & 2 Geo. IV. c. 118.

54 Geo. 3. c. 37.

54 Geo. 3. c. 187.

1 Geo. 4. c. 66.

Commencement and Continuance of this Act.

II. And be it enacted, That the police office now established in the parish of *Saint John* of *Wapping*, commonly called 'The *Thames* Police Office,' and the several police offices now established in the parishes of *Saint Margaret Westminster Saint James Westminster Saint Andrew Holborn Saint Leonard Shoreditch* and *Saint Mary Whitechapel* in the county of *Middlesex* and in the parish of *Saint Saviour* in the county of *Surrey* shall be continued; and that instead of the police office now established in the parish of *Saint Paul Shadwell* a new police office shall be established in the parish of *Saint Mary-le-bone* in the said county of *Middlesex;* and that the several persons heretofore appointed or who before the commencement of this Act shall be appointed to execute the duties of a justice of the peace at the police offices now established under the said recited Acts shall continue to execute the same at the said seven first-mentioned offices and at the said police office so to be established as last aforesaid, together with such other justices of the peace for the said counties respectively as may think proper to attend thereat; and that it shall be lawful for his Majesty his heirs and successors, upon every vacancy by death or otherwise, to appoint another fit person being a justice of the peace of the said counties of *Middlesex* and *Surrey* respectively to execute the duties of a justice of the peace at the said several police offices in lieu of the person making such vacancy.

The Public Offices now established shall be continued, but instead of the Office at Shadwell a new Office shall be established in Mary-le-bone.

Justices to act.

His Majesty may appoint Justices to fill up Vacancies.

III. And be it further enacted, That one or more of the said justices so appointed shall diligently attend at each of the said police offices every day, from ten of the clock in the morning until eight of the clock in the evening, and at such other times and places as shall be found necessary and directed by his Majesty's Principal Secretary of State for the Home Department; and that two of the said justices shall in like manner attend together at each of the said offices from twelve of the clock at noon until three in the afternoon: Provided always, that no such attendance shall be given on *Sunday Christmas Day Good Friday* or any day appointed for a public fast or thanksgiving unless in cases of urgent necessity or when it shall be directed by such Principal Secretary of State.

Time of Attendance.

IV. And be it further enacted, That the present receiver for the seven police offices established under the said first recited Act shall become the

Receiver to be continued in Office; and in case of Death his Majesty may appoint another.

No. XXVIII. 1 & 2 Geo. IV. c. 118.

His Duty.

receiver for the said eight police offices; and that it shall be lawful for his Majesty his heirs and successors, upon any vacancy in the said office of receiver by death or otherwise, to appoint any other proper person not being one of the justices appointed to act at either of the said police offices to be the receiver of the said eight police offices; and that the said receiver for the time being shall receive all fees penalties and forfeitures and other sums of money applicable to the purposes of this Act, and shall keep an exact and particular account of all such monies as shall be received by him, and shall apply the same quarterly in discharge of the salaries expences and charges attending the said police offices and in carrying this Act into execution, and shall make all such contracts and disbursements as shall be necessary for purchasing hiring fitting up and furnishing proper and sufficient houses and buildings wherein the said eight public offices shall be held in such manner as his Majesty his heirs and successors, by and with the advice and consent of his or their privy council shall think proper to direct and appoint; of which houses and buildings so to be hired or purchased and the fixtures and furniture thereof, and of all other necessaries to be held or purchased for the purposes of this Act, the property acquired therein shall be vested in the receiver for the time being, who shall and may sell assign and dispose of the same or any part thereof under the like directions and appointment as occasion shall require; and such receiver shall prepare proper plans and estimates of all such contracts and disbursements as shall be necessary for the purposes aforesaid and shall deliver the same to his Majesty's Principal Secretary of State for the Home Department; and such receiver shall further do and execute all such other lawful matters and things towards the establishment of the said eight police offices and towards the carrying this Act into execution as his Majesty, his heirs and successors, by and with the advice of his or their Privy Council shall from to time think proper to direct.

Justices to employ Constables, subject to the Approbation of the Secretary of State.

V. And be it further enacted, That the justices appointed as aforesaid or any two of them in their respective offices shall appoint retain and employ a sufficient number of fit and able men for the whole eight offices subject to the approbation of his Majesty's Secretary of State for the Home Department; whom they are hereby authorised and empowered to swear in to act as constables for preserving the peace and preventing robberies and other felonies and apprehending offenders against the peace; which constables so sworn shall within the counties of *Middlesex Surrey Essex* and *Kent* have all such powers authorities privileges and advantages as any constable duly appointed now has or hereafter may have by virtue of any law or statute now made or hereafter to be made; and shall obey all such lawful commands as they shall from time to time receive from the said justices respectively for the apprehending offenders or otherwise conducting themselves in the execution of their offices; and such justices may at any time suspend or dismiss from his employment any such constable attached to their respective offices whom they shall think remiss or negligent in the execution of his duty or otherwise unfit for the same; and when any such constable shall be so dismissed or cease to belong to any of the said offices, all powers and authorities vested in him as a constable under and by virtue of this Act shall immediately cease and determine to all intents and purposes whatever.

Thames Police Surveyors to be appointed in like Manner.

VI. And be it further enacted, That the justices appointed to the said *Thames* police office or any two of them shall (subject to such approbation as aforesaid) retain and employ any number of fit and discreet men, not exceeding thirty, who under the name of *Thames* police surveyors shall (being first duly sworn in manner above mentioned) have within the counties aforesaid the powers authorities privileges and advantages of a constable as aforesaid, and shall direct and inspect the conduct of the constables attached to the *Thames* police office and of all persons to be employed in and about ships and vessels in the said river *Thames* or in or on the several creeks wharfs quays and landing places thereto adjacent, and (subject to the orders of the said last-mentioned justices shall have power by virtue of their offices to enter at all times as well by night as

No. XXVIII. 1 & 2 Geo. IV. c. 118.

by day into and upon every ship hoy barge lighter boat or other vessel (not being then actually employed in his Majesty's service) lying or being in the said river or creeks, and into every part of every such vessel, for the purpose of inspecting and upon occasion directing the conduct of any constable who may be stationed on board of any vessel and of inspecting and observing the conduct of all other persons who shall be employed on board of any vessel in or about the lading or unlading thereof as the case may be, and for the purpose of taking all such measures as may be necessary for providing against fire and other accidents and preserving peace and good order on board of any such vessel and for the effectual prevention in all cases of any felonies or misdemeanours being committed, and for the effectual detection of any felonies or misdemeanours which may have been committed or which such surveyor may have reasonable cause to suspect to have been committed on board any such vessel; and the justices appointed to the said *Thames* police office may at any time suspend or dismiss any such *Thames* police surveyor whom they shall find remiss or negligent in the execution of his duty or otherwise unfit for the same; and when any such surveyor shall be so dismissed or cease to belong to the said offices, all powers and authorities vested in him as such surveyor under and by virtue of this Act shall immediately cease and determine to all intents and purposes whatever.

Justices to be allowed a Salary of 600*l.* per Annum.

VII. And be it further enacted, That it shall be lawful for his Majesty his heirs and successors to direct that such sum shall be issued quarterly out of the consolidated fund of the United Kingdom of *Great Britain* and *Ireland* to the said receiver as will be sufficient to pay the yearly salary of six hundred pounds clear of all fees or deductions to each of the justices so appointed to attend at the said police offices for their time and trouble, and such further sums as may be necessary for the expences of the offices and for the payment of clerks constables surveyors and others therein employed: provided that the whole charges attending the said police offices (the said salaries being included) shall not exceed the annual sum of thirty-five thousand pounds over and above the necessary disbursements for purchasing hiring repairing fitting up and furnishing the houses and buildings wherein the said offices shall be held; and that the said receiver, out of the monies so issued to him, shall and may pay to the constables and surveyors so appointed as aforesaid for their trouble and attendance such sum as may from time to time appear reasonable to his Majesty's Principal Secretary of State for the Home Department and any extraordinary expences they shall appear to have been necessarily put to in apprehending offenders and executing the orders of the justices acting under and by virtue of this Act; such extraordinary expences being first examined and approved of by the justices attending the police office to which such constables shall be respectively attached, and such further sum for rewarding the extraordinary diligence or exertion of any of the said constables or surveyors as shall be directed by the said Principal Secretary of State.

Further Sums to be issued for Payment of Clerks, Constables, &c.

No Justice shall take Fees but at the Public Offices, on Penalty of 100*l.*

VIII. And be it further enacted, That no justice of the peace for the county of *Middlesex* county of *Surrey* city and liberty of *Westminster* or liberty of the Tower of *London* or his clerk, or any person on their behalf, other than at the said police offices shall directly or indirectly upon any pretence or under any colour whatever take or receive any fee reward gratuity or recompence for any Act by him or them done or to be done in the execution of his or their office or employ as justice of the peace or clerk as aforesaid within the limits of the weekly bills of mortality or within the parish of *Saint Mary-le-bone Paddington Saint Pancras Kensington* and *Saint Luke* at *Chelsea* in the said county of *Middlesex* upon pain of forfeiting the sum of one hundred pounds for every such offence, one moiety thereof to the said receiver to be applied to the purposes of this Act and the other moiety thereof with full costs of suit to the person who shall sue for the same in any of his Majesty's courts of record at *Westminster* by action of debt bill plaint or information wherein no essoign privilege wager of law or more than one imparlance shall be

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allowed: Provided always, that nothing in this Act contained shall be construed to extend to any fees taken at any general or quarter sessions of the peace or at any meeting of justices for the purpose of licensing alehouses, or to any fees taken at the Public Office in *Bow-street*, or to any fees taken by any vestry clerk for the purpose of enforcing the payment of any taxes or assessments arising within the same parish, or for the purpose of hearing and determining any offence cognizable before justices of the peace by virtue of any statute made and provided for the special regulation or government of such parish.

Not to extend to Fees for licensing Ale-houses, or to Fees taken at the Office in Bow-street.

Tables of Fees to be hung up.

IX. And be it further enacted, That in some conspicuous part of each of the said police offices and also of the said Public Office in *Bow-street* there shall be affixed a table of the fees which may legally be taken at such offices respectively, under an Act passed in the twenty-sixth year of the reign of King *George* the Second, intituled *An Act for the settling and ascertaining the Fees to be taken by Clerks to Justices of the Peace*; and under another Act passed in the twenty-seventh year of the reign of King *George* the Second, intituled *An Act for making perpetual several Laws for Punishment of Persons destroying Turnpikes Locks or other Works erected by Authority of Parliament; and that all Acts made for erecting Courts of Conscience shall be deemed Public Acts; and to empower a certain Number of the Trustees of the* British Museum *to do certain Acts; and for confirming the Tables of Fees to be taken by the Clerks to the Justices of the Peace for the County of* Middlesex; *and for giving further Time for the Payment of Duties omitted to be paid for the Indentures or Contracts of Clerks and Apprentices; and for filing Affidavits in the Execution of Contracts of Clerks to Attornies and Solicitors; and for preventing Persons driving certain Carriages from riding upon such Carriages;* and that it shall be lawful for any justice at such offices respectively to refuse to do any act for which any fee shall be demandable unless such fee shall be first paid; and that if any such act shall be done and the fee due thereon shall not be paid it shall be lawful for any justice of the peace to summon the person from whom such fee shall be due, and to make order for payment of the same with the costs of the proceedings, and in default of payment to levy the same with the costs of the distress by warrant under his hand and seal.

26 Geo. 2. c. 14.

27 Geo. 2. c. 16.

Account of Fees taken at the Police Offices shall be delivered Quarterly to the Receiver, and the Amount of Fees paid to him.

X. And be it further enacted, That the justices so appointed to attend at the said police offices and their clerks respectively shall in books to be provided for that purpose keep a full true and particular account of all fees taken and received at each of the said offices together with all penalties and forfeitures which shall have been recovered levied or received in pursuance of any adjudication conviction or order had or made at any of the said offices or any process or warrant issuing from the same; to which books of account the said receiver shall at all times have free access; and the said justices shall once in every quarter of a year deliver unto such receiver such account verified upon oath by such justice or justices clerk or clerks or such other person or persons as shall be employed in keeping such accounts respectively or any part thereof before some justice of the peace for the said county of *Middlesex* or county of *Surrey* and shall pay the amount of all such fees unto such receiver to be applied in manner herein-before mentioned.

All Penalties (except to Informers or Parties aggrieved) recovered at the Police Offices, shall be paid to the Receiver.

XI. And be it further enacted, That all such penalties and forfeitures and shares of penalties and forfeitures as are by any Act now in force or shall be by any future Act (unless it shall contain express words to the contrary) limited and made payable to his Majesty his heirs and successors or to any description of persons other than the informer or informers who shall sue for the same or any party aggrieved, and which shall be recoverable in a summary way before a justice or justices of the peace and which shall be recovered or adjudged before any justice or justices at either of the said police offices shall be accounted for and paid into the hands of the said receiver by the justice clerk constable officer or other

person or persons who shall levy or receive the same; to be applied by such receiver in manner herein-before mentioned.

XII. And be it further enacted, That if the said justices appointed as aforesaid or any other person having received any such fees at any of the said police offices shall neglect to account for and pay the same in manner aforesaid; or if any justice justice's clerk constable officer or other person who shall levy or receive such penalties or forfeitures or shares of penalties or forfeitures shall neglect to pay the same into the hands of such receiver in manner aforesaid; or if any person having resigned any such office of receiver or having been removed from the same shall neglect within twenty-one days after notice for that purpose to account for and pay into the hands of the succeeding receiver all such sums of money as shall remain in his hands applicable to the purposes of this Act, it shall be lawful for such receiver for the time being in his own proper name only or by his name and description of office to sue for and recover the same with double costs of suit in any of his Majesty's courts of record at *Westminster* by action of debt, in which action it shall be sufficient for such receiver to declare as for money had and received to the use of such receiver for the purposes of this Act; and the defendant or defendants in such action may at the discretion of any judge of such court be held to special bail in such competent sum as such judge shall order and direct; and in any such action the court in which such action shall be brought may if such court shall think proper, at the instance of either of the parties, refer the account in dispute in a summary manner to be audited by any officer of the court or other fit person at their discretion, who may examine both plaintiff and defendant upon oath (which oath the said referee shall have power to administer), and upon the report of such referee, unless either of the parties shall shew good cause to the contrary, such court may make a rule either for the payment of such sum as upon such report shall appear to be due or for staying the proceedings in such cause, and upon such terms and conditions as to the same court shall appear reasonable and just; or may order judgment to be entered up by confession for such sum as upon such report shall appear to be due.

If Fees and Penalties are not accounted for, Receiver may sue for the same in any Court of Record.

XIII. And be it further enacted, That in case of the death of any such receiver or of any person having resigned or been removed from such office or of any of the other persons whom the said receiver for the time being is authorised to sue as aforesaid, in every such case the receiver for the time being may in his own proper name only or by his name and description of office sue for and recover such sum of money as shall have been remaining in the hands of such deceased receiver or other person applicable to the purposes of this Act, or the executors or administrators of such person deceased; in which action it shall be sufficient for the plaintiff to declare that the deceased was indebted to the plaintiff for money had and received for the purposes of this Act, or that the deceased died possessed of money had and received for the purposes of this Act, whereby an action accrued to the plaintiff to demand and have the same of such executors or administrators; and the like action shall and may be brought against any executors or administrators of executors or administrators; in all which actions the defendant or defendants may plead in like manner and avail themselves of the like matters in their defence as in any action founded upon simple contracts of the original testator or intestate; and in all actions to be brought by such receiver by virtue of this Act, proof of the plaintiff's acting in the execution of such office shall be sufficient evidence of his holding the same, unless the contrary shall be shown in evidence by the defendant or defendants in such action.

Receiver may sue for Money in the Hands of deceased Receivers, and recover from Executors.

XIV. And be it further enacted, That such receiver shall every three months, and oftener if required, deliver to the Lord High Treasurer or the Commissioners of his Majesty's Treasury of the United Kingdom of *Great Britain* and *Ireland* for the time being a full and particular account of all monies by him received and paid as aforesaid, with vouchers for the same; which account shall be verified upon oath before some justice or baron of one of his Majesty's courts of record at *Westminster;* and such receiver for his care and pains in the execution of such office shall and

Receiver to render Accounts quarterly, or oftener if required.

Allowance to the Receiver.

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may retain to his own use, out of the monies so received by him as aforesaid, such sum not exceeding four hundred pounds as his Majesty his heirs and successors, by and with the advice of his or their privy council shall direct and appoint: Provided always, That if at the end of any year there shall be any surplus in the hands of such receiver he shall pay the amount of such surplus into the receipt of his Majesty's Exchequer, and the same shall be carried to and made part of the consolidated fund.

Justices not to sit in Parliament.

No Justice, Receiver, Surveyor or Constable to vote at certain Elections.

XV. And be it further enacted, That no justice appointed as aforesaid shall during his continuance in such appointment be capable of being elected or of sitting as a member of the House of Commons; and that no justice receiver surveyor or constable appointed by virtue of this Act shall during the time that he shall continue in his office respectively or within six months after he shall have quitted the same be capable of giving his vote for the election of a member to serve in Parliament for the counties of *Middlesex* or *Surrey*, or for the city and liberty of *Westminster* or the borough of *Southwark* respectively; nor shall by word message writing or in any other manner endeavour to persuade any elector to give or dissuade any elector from giving his vote for the choice of any person to be a member to serve in Parliament for the said counties city or borough; and every such justice receiver surveyor or constable offending therein shall forfeit the sum of one hundred pounds, one moiety thereof to the informer and the other moiety thereof to the use of the poor of the parish or place where such offence shall be committed; to be recovered by any person that shall sue for the same by action of debt bill plaint or information in any of his Majesty's courts of record at *Westminster*, in which no essoign protection privilege wager of law or more than one imparlance shall be allowed; such action to be brought within the space of one year after such offence committed: Provided nevertheless, That nothing in this Act shall extend to subject any such justice receiver surveyor or constable to any penalty for any act done by him at or concerning any of the said elections in the discharge of his duty in the said respective capacities.

Acts directed to be done by a Justice where an Offence is committed, may be done by a Justice in the next Police Office.

XVI. And be it further enacted, That where by any law now in being or hereafter to be made any act is directed or authorised to be done by any justice or justices of the peace residing in or near or next the parish or place where any offence or other matter cognisable before them shall be committed or shall arise, the same jurisdiction shall and may be exercised by a justice or justices acting in such of the said police offices as may be situated next or near such parish or place.

His Majesty in Council may alter the Situation of the Offices.

XVII. And be it further enacted, That it shall be lawful for his Majesty his heirs and successors, by and with the advice of his or their privy council, to make such alterations in the places where any of the said police offices shall be situated, or to make such alterations in the hours of attendance therein, and to make all such other regulations to be observed in conducting the same as he or they from time to time shall think proper.

For Regulation of Coffee-shops.

XVIII. And whereas it hath become a practice of late to open shops or rooms for the sale or under the pretence of selling ready-made coffee tea and other liquors, and to keep such shops or rooms open during the whole or the greatest part of the night, thereby affording shelter and accommodation to thieves prostitutes and other disorderly persons and tending greatly to the encouragement of robberies and to the concealment of stolen property; Be it further enacted, That no shop room or place for the purpose aforesaid within the city of *London* or the liberties thereof within the limits of the weekly bills of mortality or within any of the parishes herein-before mentioned shall be kept open after the hour of eleven o'clock at night during any part of the year, nor opened before the hour of four o'clock in the morning between *Lady Day* and *Michaelmas*; or before six o'clock in the morning between *Michaelmas* and *Lady Day*; and if any such shop room or place shall be open within the hours herein-before prohibited, or being shut up if any person shall during those hours be found therein, except the persons actually dwelling there or having

Penalty not exceeding 100*l.*

lawful excuse for being there, then the master mistress waiter or other person having the care government or management of such shop room or place, whether he or she be the real owner or keeper thereof or not, shall forfeit and pay any sum not exceeding ten pounds upon conviction of any such offence before any justice of the peace by confession or upon the oath of one or more credible witness or witnesses; and if the party so convicted shall not immediately pay the said penalty the justice shall commit him or her to hard labour in the house of correction for any space of time not exceeding three months, unless the said penalty shall be sooner paid; and the said penalty when paid shall be distributed one moiety to the informer the other moiety to the Chamberlain of the city of *London*, if the offence be committed in the said city or the liberties thereof; and if out of the said city and liberties, then the other moiety to the said receiver for the purposes of this Act: Provided always, That nothing herein contained shall apply to or affect any house duly licensed for the sale of wines and spirituous liquors; and that no such conviction shall exempt the owner keeper or manager of any such shop room or place from any penalty or penal consequence whereto he or she may be liable for keeping a disorderly house.

Application of Penalty.

Not to affect Houses for the Sale of Wines and Spirits.

XIX. And be it further enacted, That if any person shall within the city of *London* and liberties thereof, or within the limits and parishes aforesaid, blow any horn or use any other noisy instrument for the purpose of hawking selling or distributing any article whatsoever, it shall be lawful for any constable headborough patrole watchman or other person to apprehend every person so offending and convey him before any justice of the peace, who shall proceed to examine upon oath any witnesses appearing to give evidence touching such offence; and if the party accused shall be convicted of such offence, then and in every such case he shall for every such offence forfeit and pay any sum not exceeding forty shillings and not less than ten shillings, to be applied in such manner as such justice shall direct; and in case the offender shall not upon conviction forthwith pay the penalty, such justice is hereby required to commit such offender to the house of correction, there to be kept to hard labour for any time not exceeding ten days, unless the penalty shall be sooner paid.

Prohibiting the blowing of Horns on Sundays, &c.

Penalty.

XX. And be it further enacted, That every conviction for the offences aforesaid shall be in the following form of words, or in some other form of words to the like effect:

Form of Conviction.

'BE it Remembered, That on the . day of in the year of our Lord *A. B.* is brought before me [*or*, having been duly summoned has neglected to appear before me,] *C. D.* Esquire, one of his Majesty's Justices of the Peace in and for the county of [*or*, city or liberty or place, *as the case may be*,] and is charged before me the said Justice with having [*here describe the offence;*] and it appearing to me the said Justice upon the confession of him the said *A. B.* [*or*, upon the oath of a credible witness, *as the case may be*,] that the said *A. B.* is guilty of the said offence; I do therefore adjudge the said *A. B.* to forfeit and pay the sum of and in default of payment to be imprisoned in the house of correction at and there kept to hard labour for the term of unless the said penalty shall be sooner paid; and I do hereby direct that the said penalty shall when paid be applied to [*here direct the mode.*] Given under my hand and seal, the day and year first above written.'

XXI. And whereas ill-disposed and suspected persons and reputed thieves frequent the parks fields streets highways and places adjacent, and divers places of public resort and the avenues leading thereto, within the city of *London* and the liberties thereof, the limits of the weekly bills of mortality, and the said parishes of *Saint Mary-le-bone Paddington Saint Pancras Kensington* and *Saint Luke* at *Chelsea*, and also the said river *Thames*, and the docks and creeks quays and warehouses adjacent thereto, and the streets highways and avenues leading to the said river

Constables may apprehend suspected Persons.

No. XXVIII. 1 & 2 Geo. IV. c. 118.

docks creeks quays and warehouses, with intent to commit felony on the persons or property of his Majesty's subjects; and although their evil purposes are sufficiently manifest, the power of his Majesty's justices of the peace to demand of them sureties for their good behaviour hath not been of sufficient effect to prevent them from carrying their evil purposes into execution; Be it further enacted, That it shall be lawful for any constable headborough patrole watchman or other person to apprehend every such suspected person or reputed thief, and convey him or her before any justice of the peace; and if it shall appear before the said justice upon the oath of one or more credible witness or witnesses that such person is a person of evil fame and a reputed thief, and such person shall not be able to give a satisfactory account of himself or herself and of his or her way of living, and it shall also appear to the satisfaction of the said justice that there is just ground to believe that such person was in or on such park field street highway river dock creek quay warehouse avenue or other place as aforesaid with such intent as aforesaid, every such person shall be deemed a rogue and vagabond within the intent and meaning of the statute made in the seventeenth year of his late Majesty King *George* the Second, intituled *An Act to amend and make more effectual the laws relating to Rogues, Vagabonds and other idle and disorderly Persons, and to Houses of Correction.*

17 Geo. 2. c. 5.

Form of Conviction.

XXII. And be it further enacted, That every such conviction shall be in the following form of words, or in some other form of words to the like effect:

'BE it Remembered, That on the day of in the year of our Lord *A. B.* is brought before me *C. D.* Esquire, one of his Majesty's Justices of the Peace in and for the county of [*or*, city liberty or place, *as the case may be*,] and charged before me the said Justice with being a rogue and vagabond, he the said *A. B.* having been apprehended on the day of in a certain called in the parish of in the said county [*or*, city, *et cetera*, *as the case may be*;] and it appearing to me the said Justice on the oath of a credible witness, that the said *A. B.* is a person of evil fame and a reputed thief, and the said *A. B.* on his examination before me, not being able to give a satisfactory account of himself or of his way of living, and it is also appearing to the satisfaction of me the said Justice that there is just ground to believe that the said *A. B.* was in such as aforesaid, with intent to commit felony on the person or property of his Majesty's subjects there being; I do therefore, in pursuance of an Act passed in the first and second year of the reign of King *George* the Fourth, intituled [*here insert the title of this Act*] convict him the said *A. B.* of the said offence, and adjudge him to be a rogue and vagabond within the intent and meaning of the statute made in the seventeenth year of the reign of his late Majesty King *George* the Second, intituled *An Act to amend and make more effectual the Laws relating to Rogues, Vagabonds and other idle and disorderly Persons, and to Houses of Correction;* and that he for his said offence be committed to the house of correction for the said county until the next general [*or*, quarter, *as the case may be*] sessions of the peace to be holden for the said county [city *or*, place, *as the case may be*,] then and there to be further dealt with according to law. [*If the party be committed for a less time than until the sessions, then say*, there to remain for the space of .] Given under my hand and seal, the day and year first above written.'

Conviction not to be quashed for Want of Form, or removeable by Certiorari. Appeal to Quarter Sessions, &c.

XXIII. And be it further enacted, That no conviction under this Act for any of the offences aforesaid shall be quashed or set aside or adjudged void or insufficient for want of any other form of words whatever; nor shall the same be removed by *certiorari* into his Majesty's Court of King's Bench; but that if any person shall think himself aggrieved thereby, such person may appeal to the justices of the peace at the next general or

quarter sessions of the peace to be held for the county or city wherein the cause of complaint shall have arisen, such person at the time of his conviction entering into a recognisance with two sufficient sureties conditioned personally to appear at the said sessions to try such appeal, and to abide the further judgment of the justices at such sessions assembled; and in case any such conviction of a reputed thief shall be affirmed at such sessions, the said justices may adjudge the offender to be a rogue and vagabond and proceed against him or her in the same manner as they might have done if such rogue and vagabond had been committed to the house of correction until such general or quarter sessions; and in case such offender shall not appear pursuant to the said recognisance, the person so convicted by such justice shall be deemed an incorrigible rogue within the intent and meaning of the said last recited Act; and the justices at such sessions or any two of them shall issue their warrant to apprehend and commit the person so deemed an incorrigible rogue to some house of correction or common gaol within their jurisdiction, there to remain until the next general or quarter sessions for the said county liberty or city as the case may be, then and there to be further dealt with according to law.

17 Geo. 2. c. 5.

Officers and Patroles of Bow-street Office to act as Constables.

XXIV. And whereas it is expedient that the officers of the said Public Office in *Bow-street* and the horse and foot patrole acting under the orders of the chief magistrate of that office shall be sworn in as constables and be empowered to act within the said several counties of *Middlesex Surrey Essex* and *Kent*, Be it therefore further enacted, That it shall and may be lawful for the said chief magistrate to administer to such persons respectively an oath duly to execute the office of constable within the counties aforesaid; and each of such persons being sworn shall have power to act as a constable for the preservation of the peace and for the security of property against felonious and other unlawful modes of obtaining the same within any and every of the said several counties, and for apprehending offenders against the peace as well by night as by day; and shall have all such powers and authorities privileges and advantages as any constable duly appointed now has or hereafter may have within his constablewick: Provided always, That when any such constable shall be dismissed from his said employment, or cease to belong to the said Public Office in *Bow-street*, all powers and authorities allowances emoluments privileges and advantages vested in the person so dismissed or ceasing to belong to the said office, shall immediately cease and determine.

For the Regulation of Parish Watchmen, &c.

XXV. And be it further enacted, for the purpose of ensuring competency and fidelity in the watchmen and patroles employed by the aldermen and common council of the city of *London*, and the vestries and other parochial and local authorities within the limits of the weekly bills of mortality and the parishes herein-before mentioned, when any case of incompetency negligence misconduct or delinquency shall appear to any two justices of the peace acting within the said city or limits and parishes, against any such watchman or patrole, it shall be lawful for the said two justices by writing under their hands and seals to declare the same, and to pronounce the man, so found incompetent or guilty of such negligence misconduct or delinquency, to be either suspended for a limited time or absolutely dismissed from his office as they shall think proper; and to give notice of such suspension or dismissal to the alderman and common council of the ward if in the city of *London*, or to the vestry or other authority by whom such watchmen or patrole was appointed; and every such watchman or patrole shall be incapable of being re-appointed either for the same or any other ward parish or place while such suspension or dismissal shall remain in force; and if no watchman or patrole shall be appointed by the alderman and common council of the ward or by the vestry or other proper authority, at their next meeting after such notice shall be delivered to the deputy of the ward, or to the clerk or secretary of such vestry or other proper authority, or left at the house or office where their business is usually transacted, the said justices shall appoint a successor, who shall exercise and enjoy the said duties and powers and receive the same pay emolument and allowances as if regularly appointed.

No. XXVIII. 1 & 2 Geo. IV. c. 118.

XXVI. And be it further enacted, That no man shall hereafter be appointed within the limits and parishes aforesaid, by any authority whatsoever, to be a watchman or patrole, who shall be above the age of forty years, unless he shall have been previously and up to the time of such appointment employed in the said horse or foot patrole.*

*Age of Watchmen, &c.

XXVII. And be it further enacted, That it shall be lawful for the alderman and common council of the respective wards in the city of *London* and liberties thereof to make such allowance to superannuated watchmen beadles or patroles as they shall think proper, to be paid out of the watch rate to be raised in such wards respectively.†

† Allowance to superannuated Watchmen.

For enabling Constables at Watch-houses to take Bail at Night.

XXVIII. And be it further enacted, That for the better administration of the police within the limits and parishes aforesaid it shall be lawful for the constable or headborough attending at any watch-house within those limits and parishes between the hours of eight in the afternoon and six in the forenoon, to take bail by recognisance without any fee or reward from any person who shall be brought into his custody within the said hours without the warrant of a justice charged with any petty misdemeanor, if such constable shall deem it prudent to take such bail for the appearance of such person before the justices at the said Public Office in *Bow-street* or at one of the said police offices to be specified in the recognisance for examination at the hour of ten in the forenoon next after such recognisance shall be taken, unless that hour shall fall on a *Sunday*, or on one of the days of absence allowed by this Act, and in that case at the like hour on the succeeding day; and that every recognisance so to be taken shall be of equal obligation on the parties entering into the same and liable to the same proceedings for the estreating thereof, as if the same had been taken before one of his Majesty's justices of the peace; and the constable or headborough shall enter in a book to be kept for that purpose in every watch-house the names residence and occupation of the party and his sureties entering into such recognisance, together with the condition thereof and the sums respectively acknowledged, and shall lay the same before such justice as shall be present at the time and place when and where the party is required to appear; and if the party does not appear at the time and place required, or within one hour after, the justice shall cause a record of the recognisance to be drawn up to be signed by the constable or headborough, and shall return the same to the next general or quarter sessions of the peace with a certificate at the back thereof signed by such justice, that the party has not complied with the obligation therein contained, and the clerk of the peace shall make the like estreats and schedules of every such recognisance as of recognisances forfeited in the sessions of the peace; and if the party not appearing shall apply by any person on his behalf to postpone the hearing of the charge against him, and the justice shall think fit to consent thereto, the justice shall be at liberty to enlarge the recognisance to such further time as he shall appoint; and when the matter shall be heard and determined either by the dismissal of the complaint or by binding the party over to answer the matter thereof at the sessions or otherwise, the recognisance for the party's appearance before the justices shall be discharged without fee or reward.

In default of Appearance Recognisance to be forfeited.

Time of Hearing may be postponed.

Penalty for damaging, &c. Boats belonging to Thames Police.

XXIX. And be it further enacted, That if any person shall wilfully destroy or damage or endeavour to destroy or damage or be wilfully concerned in destroying or damaging or endeavouring to destroy or damage any boat belonging to or hired or employed by or by the authority of the justices appointed to attend at the *Thames* police office, or any part of the sails oars or other tackle stores goods or furniture contained in or belonging to any such boat, every person so offending shall forfeit and pay for every boat so destroyed or damaged or attempted to be destroyed or damaged, or of which any of the tackle or other contents shall have been so destroyed or damaged or attempted to be destroyed or damaged any sum not exceeding thirty pounds, or shall suffer imprisonment for any time not exceeding three months over and above any such damages as may be recoverable by action at law against any such offender.

No. XXVIII. 1 & 2 Geo. IV. c. 118.

XXX. And be it further enacted, That it shall be lawful for every such *Thames* police surveyor (subject to the orders of the said justices appointed to attend the *Thames* police office), having just cause to suspect that any felony has been or is about to be committed in or on board of any ship hoy barge lighter boat or other vessel lying or being in the said river docks or creeks, to enter at all times as well by night as by day into and upon every such ship hoy barge lighter boat or other vessel, and therein to take all necessary measures for the effectual prevention or detection of all felonies which he has just cause to suspect to have been or to be about to be committed in and upon the said river docks or creeks, and to apprehend and detain all persons suspected of being concerned in such felonies and also all property so suspected to be stolen, and the same to produce before some justice to be dealt with according to law.

Surveyors having just Cause to suspect Felony, may enter on Vessels and take up suspected Persons.

XXXI. And be it further enacted, That it shall be lawful for every such *Thames* police surveyor at any time between sun-rising and sun-setting to enter any ship or vessel (except his Majesty's ships) in the said river docks and creeks and to search the same for unlawful quantities of gunpowder, and also to exercise the same powers of seizing removing to proper places and detaining all such unlawful quantities of gunpowder found on board any such ship or vessel and the barrels or other packages in which such gunpowder shall be, as are given to persons searching for unlawful quantities of gunpowder under a warrant of a justice, by virtue of an Act passed in the twelfth year of his late Majesty's reign, intituled *An Act to regulate the making keeping and carriage of Gunpowder within* Great Britain, *and to repeal the Laws heretofore made for any of those Purposes.*

Unlawful Quantities of Gunpowder may be seized.

12 Geo. 3. c. 61.

XXXII. And be it further enacted, That it shall be lawful for any *Thames* police constable or surveyor or any other peace officer within his jurisdiction to stop search and detain in some place of safety any boat which there shall be reason to suspect of having any ropes cordage tackle apparel furniture stores materials or any part of any cargo or lading stolen or unlawfully procured from or out of any ship boat barge lighter or craft in the said river docks or creeks or from any wharf quay or landing place adjacent to the said river docks or creeks; and also to apprehend and detain or cause to be apprehended and detained any person who may be reasonably suspected of having or conveying any such articles in such boat; and such person so apprehended shall be (as soon as conveniently may be) conveyed before some justice of the peace; and if such person shall not produce the party or parties from whom he or she bought or received such articles or some credible person to depose upon oath the sale or delivery thereof or shall not give an account to the satisfaction of such justice how he or she came by the same, then the person so apprehended shall be deemed and adjudged guilty of a misdemeanor, and shall suffer as herein-after mentioned; and such boat, with her tackle apparel furniture and loading, shall upon such conviction be forfeited and disposed of as is herein-after directed.

Where Boats are suspected to have any stolen Ropes, &c. on board, they may be detained, and the Persons suspected of having conveyed the stolen Articles on board may be taken before a Justice, &c.

XXXIII. And be it further enacted, That every *Thames* police constable and surveyor and every other peace officer within his jurisdiction shall and may apprehend and detain or cause to be apprehended and detained every person who may reasonably be suspected of having or carrying any ropes cordage tackle apparel furniture stores materials or any part of any cargo or lading, stolen or unlawfully procured from or out of any ship boat barge lighter or craft in the said river docks or creeks, or from any wharf quay or landing place adjacent to the said river docks or creeks; and also shall and may seize all such articles and detain them in some place of safety, and shall as soon as conveniently may be convey or cause every person so apprehended to be conveyed before some justice of the peace; and if such person shall not produce the party or parties from whom he or she bought or received such articles, or some credible person to depose upon oath the sale or delivery thereof, or shall not give an account to the satisfaction of such justice how he or she came by the

Constables, &c. may seize all Ropes, &c. suspected to be stolen from out of Vessels in the River, and carry the Persons concerned therein before a Justice, &c.

No. XXVIII. 1 & 2 Geo. IV. c. 118.

same, then the person so apprehended shall be deemed and adjudged guilty of a misdemeanor, and shall suffer as herein-after mentioned.

On Information that there is reasonable Cause for suspecting that any of the Cargo of any Vessel or any of his Majesty's Stores, &c. have been unlawfully obtained, and are concealed, how to proceed.

XXXIV. And be it further enacted, That if on information given on oath it shall appear to any justice that there is reasonable cause for suspecting that any materials furniture stores or any part of the cargo of any ship or vessel lying or being in the said river docks or creeks or any stores belonging to his Majesty or consigned to any person for his Majesty's service have been stolen or unlawfully obtained from or out of any such ship or boat barge lighter or craft lying or being in the said river docks or creeks, or from any wharf quay or other landing place adjacent to the same, or from or in the way to or from any warehouse into or from which such articles had been removing or removed to or from any such wharf quay or landing place, and that such articles after having been so stolen or unlawfully obtained are concealed or otherwise lodged in any dwelling house warehouse yard garden or any other place, it shall be lawful for such justice by special warrant under his hand and seal, directed to any *Thames* police constable or surveyor as aforesaid or other constable within his jurisdiction, to cause every such place to be searched at any time of the day or by night if power for that purpose be especially given in and by such warrant; and the said justice if it shall appear to him necessary may moreover empower such constable or surveyor, with any such assistance as to the said justice may appear or by such constable or surveyor may be found necessary (such constable or surveyor having previously made known such his authority), to use force for the effecting of such entry whether by breaking open doors or otherwise; and if upon search thereupon made any such suspected article shall be found, then to convey the same forthwith to and before a justice or to guard the same on the spot while the offenders are taken before a justice or otherwise dispose thereof in some place of safety, subject to the orders of a justice in manner above-mentioned; and moreover to apprehend and convey before the said justice the person or persons in whose house lodging or other place the same shall so have been found, as also every other person found in such house lodging or place, who shall appear to have been privy to the depositing of such article in such place, knowing or having reasonable cause to suspect the same to have been stolen or otherwise unlawfully obtained; and if such persons respectively shall not immediately or within some reasonable time to be assigned by the justice, make it appear to the satisfaction of the justice by what lawful means such article or articles came to be deposited or situated in such place as aforesaid without any default on the part of such persons respectively, or that they respectively did not know that the same were or by what means the same were deposited or situated in such place, then and in such case the person or persons in whose house lodging or other place any such suspected article was found, and also every other person so appearing to have been privy to the depositing thereof, knowing or having cause to suspect the same to have been stolen or otherwise unlawfully obtained, shall be deemed and adjudged guilty of a misdemeanor and shall suffer as herein-after mentioned.

Party from whom Goods bought to be examined by the Justice.

If Goods are found to be unlawfully obtained, Party adjudged to be guilty of a Misdemeanor,

XXXV. Provided always and be it further enacted, That if any person on being so produced before any justice to give an account of any articles seized and detained in any of the cases aforesaid, shall declare himself or herself to have bought received or otherwise obtained such articles of some other person, such justice is hereby authorised and required to examine every such other person and also every other prior purchaser or pretended purchaser; and if upon the whole of the evidence it shall appear to the satisfaction of such justice that the party so suspected at the time of his or her receiving such articles into his or her possession did believe or had reasonable cause to believe that the same were at any time and by any person unlawfully come by or obtained, it shall be lawful for such justice to adjudge such party to be guilty of misdemeanor, and the party so convicted shall thereupon suffer as herein-after mentioned.

No. XXVIII. 1 & 2 Geo. IV. c. 118.

Penalty on Masters of Vessels between Westminster Bridge, and Blackwall, having on board Guns loaded with Ball, or discharging Guns before Sun-rising or after Sun-setting, and also for heating of Tar and other combustible Matter on board of Vessels.

XXXVI. And for the more effectual prevention of accidents by fire and other mischiefs upon the said river, Be it further enacted, That if any master or commander or other officer of any ship or vessel (except his Majesty's ships) shall while such ship or vessel shall lie or be in the said river between *Westminster Bridge* and *Blackwall* keep any gun on board such ship or vessel shotted or loaded with ball, or cause or permit to be fired or discharged any gun on board such ship or vessel before sun-rising or after sun-setting, such master commander or other officer shall for every such gun so kept shotted or loaded forfeit the sum of five shillings; and for every gun so fired or discharged the sum of ten shillings; and if any master commander or other officer of any such ship or vessel or any other person on board of the same or any person on board of any barge lighter boat or other craft or vessel shall while such ship barge lighter boat craft or vessel shall lie or be in the said river between *Westminster Bridge* and *Blackwall* heat or melt or cause or permit to be heated or melted by fire logger-heat shot or any other means on board any ship barge lighter boat craft or vessel whatever any pitch tar rosin grease tallow oil or other combustible matter, every person so offending shall for every such offence forfeit any sum not exceeding five pounds, and any one of the justices appointed to attend at the *Thames* police office or any other justice within his jurisdiction is hereby authorised and required upon any information exhibited or complaint made in that behalf within ten days next after any such offence shall have been committed to summon the party accused and also the witnesses on either side, or after oath made of the commission of any of the facts above-mentioned by one or more credible witness or witnesses to issue a warrant to apprehend the party accused, and upon the party's appearance or contempt in not appearing (upon the proof of notice given) such justice shall proceed to the examination of the witness or witnesses on oath, and upon due proof thereof, either by the voluntary confession of the party or by the oath of one or more credible witness or witnesses, to give judgment or sentence; and in case the party accused shall be convicted of such offence, it shall and may be lawful for such justice to commit such offender to prison, there to remain for any time not exceeding the space of two months unless the penalty shall be sooner paid; and if any person shall find himself aggrieved by the judgment of any such justice, he may appeal to the next court of general quarter sessions for the county or city where such offence shall have been committed on giving immediate notice of such appeal and finding sufficient security to the satisfaction of such justice for prosecuting such appeal with effect and for abiding the determination of the court therein; and the said court are hereby empowered to summon and examine witnesses upon oath and finally to hear and determine the matter, and in case the judgment shall be affirmed to award the person appealing to pay such costs occasioned by such appeal as shall seem meet; and one moiety of all money recovered on account of every such penalty shall be distributed at the discretion of the justice making the conviction to such person or persons as he shall judge to have been instrumental in detecting and prosecuting the offender.

Framing a false Bill of Parcels to escape Detection deemed a Misdemeanor.

XXXVII. And be it further enacted, That every person who for the purpose of protecting or preventing any goods wares merchandize or other articles whatsoever from being seized on suspicion of their being stolen or otherwise unlawfully obtained, or of preventing the same from being produced or made to serve as evidence of or concerning any felony or misdemeanor, shall frame or cause to be framed or be anywise concerned in framing or causing to be framed any bill of parcels containing any false statement in regard to the name or abode of any alleged vendor, the quantity or quality of any goods, the place from whence or the conveyance by which the same were furnished, the price agreed upon or charged for the same, or any other particular, knowing such statement to be false, or who shall fraudulently produce such bill of parcels knowing the same to have been fraudulently framed, shall be adjudged guilty of a misdemeanor and shall suffer as herein-after mentioned, and may moreover at the discretion of any justice in whose jurisdiction such offence shall be

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committed be published and advertised as a fabricator of false bills of parcels or as a convicted or reputed receiver of goods stolen or otherwise unlawfully obtained, as the case may be.

Penalty for breaking, &c. Packages, with an Intent that the Contents may be spilled.

XXXVIII. And whereas for the purpose of increasing the facility of depredation it hath been a common practice among persons concerned in the landing and warehousing of merchandize from on board ships and vessels in the said river wilfully to injure and promote the opening and breaking of casks bags and other packages and the spilling of their contents; For remedy thereof, Be it further enacted, That if any person employed in the loading and landing or warehousing of any goods or any other person shall wilfully or through culpable negligence or carelessness cause or suffer or be concerned in causing or suffering to be broken bruised pierced started cut torn or otherwise injured any cask box chest bag or other package containing or being designed and prepared for containing any goods while on board of any barge lighter or other craft lying or being in the said river or any dock creek quay wharf or landing place adjacent to the same, or in or in the way to or from any warehouse to or from which such package shall have been removed shall be removing or about to be removed, with intent that the contents of such package or any part thereof may be spilled or dropped from such package, every person so offending shall for every such offence be deemed and adjudged guilty of a misdemeanor and shall suffer as herein-after mentioned.

Wilfully letting fall Articles into the Thames, or into a Boat, &c. with fraudulent Intention, how to be punished.

XXXIX. And be it further enacted, That if for the purpose of preventing the seizure or discovery of any materials furniture stores or merchandize belonging to or having been part of the cargo of any ship or vessel lying in the said river or the docks or creeks adjacent thereto, or of any other articles unlawfully obtained from any such ship or vessel, any such or any other article shall be wilfully let fall or thrown into the river or in any other manner directly or purposely conveyed away or endeavoured to be conveyed away from any ship boat barge lighter craft wharf quay or other landing place, every person being party privy or accessary to such letting fall throwing or conveyance or to any previous instructions or premeditated design so to let fall throw or convey away any such article with any such purpose as aforesaid, shall be deemed and adjudged guilty of a misdemeanor; and if any article whatever of apparent value shall be wilfully let fall thrown conveyed away or endeavoured to be conveyed away from any ship boat barge lighter or craft into any other boat barge lighter or craft or from any wharf quay or other landing place without the order assent or privity of the owner or of the person having the lawful charge of such article, it shall be lawful for any such *Thames* police constable or surveyor or for any constable of the city of *London* within the jurisdiction of the said city to seize apprehend and secure any such boat barge lighter or other craft in which such article shall be so let fall thrown or conveyed away, and every person therein or who by reason of his or her nearness to the place where such offence shall be committed shall be reasonably suspected by such constable or surveyor of being party privy or accessary thereto, and forthwith to convey every such person so apprehended before one of the said justices appointed to attend at the *Thames* police office or some other justice in whose jurisdiction such offence shall be committed; and if upon examination it shall not be made appear to the satisfaction of the justice before whom the offender shall be carried that such letting fall throwing or conveying away or endeavour to convey away proceeded either from mere accident or from some lawful cause and not from any such fraudulent or evasive design as aforesaid, every person so appearing to be party privy or accessary as aforesaid shall be deemed and adjudged guilty of a misdemeanor and shall suffer as herein-after-mentioned.

For Offences declared Misdemeanors, and for which no Penalty is appointed, Offenders shall forfeit not exceeding 5*l.* or be imprisoned.

XL. And be it further enacted, That for every offence herein-before declared to be a misdemeanor or for which no special penalty is herein-before appointed, the offender shall at the discretion of the justice before whom the conviction shall take place either forfeit and pay any sum not exceeding five pounds or suffer imprisonment for any time not exceeding

two months in any gaol or house of correction within the jurisdiction of such justice; and in case of the adjudication of a pecuniary penalty and non-payment thereof, it shall be lawful for such justice to commit the offender to any gaol or house of correction for the like term unless such penalty shall be sooner paid; and one moiety of every such pecuniary penalty shall be paid to such receiver as aforesaid for the purposes of this Act, and the other moiety thereof under the direction of the justice by whom the same shall have been adjudged shall either be paid and applied to the use of the informer alone, or be distributed between such persons as shall have contributed to the conviction of the offender, in such shares and proportions as such justice shall think fit.

Offences how to be tried.

XLI. And be it further enacted, That in every case in which complaint shall be made or information given of any offence by this Act declared to be a misdemeanor or for which any pecuniary penalty is hereinbefore appointed with or without imprisonment in addition thereto or in lieu thereof, the matter of such complaint or information, if the offence shall have been committed or the offender apprehended within the jurisdiction of the city of *London*, may be heard and determined by the Lord Mayor Recorder or one of the Aldermen of the said city and not elsewhere; but if the offence shall have been committed or the offender apprehended out of the said jurisdiction, such complaint or information may be heard and determined either by one of the justices appointed to the *Thames* police office as aforesaid or by any other justice within whose jurisdiction the offence shall have been committed or the offender apprehended; and every conviction thereupon had shall be certified filed and entered in such manner as is directed in and by an Act of the second year of his late Majesty's reign, intituled *An Act to prevent the committing of Thefts and Frauds by Persons navigating Bum-boats and other Boats upon the River* Thames with respect to convictions under that Act, and may also be drawn up in such form and manner *mutatis mutandis* as is appointed in and by the said Act; and neither such conviction nor any proceeding previous thereto shall be removed by *certiorari* or otherwise into any court of record, but such conviction shall be final and conclusive to all intents and purposes whatsoever.

2 Geo. 3. c. 28.

Misdemeanors under recited Act 2 Geo. 3. c. 28. to be punished at the discretion of the Justice.

XLII. And whereas the punishments for misdemeanors provided in and by the said Act of the second year of his late Majesty's reign have been found insufficient for the preventing of such offences; Be it enacted, That every person who shall be guilty of any of the offences respectively made and declared to be misdemeanors in and by the said Act may be punished at the discretion of the justice or justices by or before whom the offender shall be convicted, either with the punishment appointed in and by the said Act or by such other punishment as is hereby appointed for and in cases of offences declared to be misdemeanors in and by this present Act.

Forfeited Boats, instead of being burnt, may be restored or sold.

XLIII. And be it further enacted, That in all cases in which it is directed by the said last recited Act that any boat with her tackle and appurtenances which shall be forfeited shall be burnt and destroyed, it shall be lawful for any justice before whom any person shall have been convicted of any offence whereby any boat is or should be adjudged to be forfeited under that Act, and also for any justice by whom any boat shall be adjudged to be forfeited under this Act, either to direct such boat with her tackle and appurtenances to be burnt and destroyed, or to be restored to the owners thereof, or to be publicly sold, and the produce of such sale to be applied in like manner as all other cases of forfeitures under this Act.

Disputes about Wages for Labour done on the River, &c. (except by Trinity Ballastmen) to be settled by Justices, provided the Sum in question does not exceed 5*l.*

XLIV. And whereas disputes frequently arise between bargemen lightermen watermen ballastmen coal whippers coal porters sailors lumpers riggers shipwrights caulkers and other labourers who work for hire in or upon the said river and the docks creeks wharfs quays and places adjacent, respecting wages or money due to them for work, and the owners masters or commanders of vessels and their agents and the owners wharfingers or occupiers of such wharfs or quays and their agents

No. XXVIII. 1 & 2 Geo. IV. c. 118.

and other persons employing such labourers; Be it further enacted, That all differences complaints and disputes which shall happen and arise between any bargemen lightermen watermen ballastmen (except Trinity ballastmen) coal whippers coal porters sailors lumpers riggers shipwrights caulkers or other labourers who work for hire in or upon the said river or the docks creeks wharfs quays or places adjacent, and the owners masters or commanders of vessels or their agents on the said river or the docks or creeks thereunto adjoining or the owners wharfingers or occupiers of such wharfs or quays or their agents or other employers respecting wages or money due to such labourers for work, whether the same persons be employed for any certain time or in any other manner, shall be heard and determined by the justices appointed to the *Thames* police office, or any one of them, or any other justice within his jurisdiction; and every such justice is hereby empowered to summon before him any such master or commander of any vessel or any such owner thereof or his agent, or the owner wharfinger or occupier of any wharf or quay or their respective agents, or any other employer; and if any such master commander owner wharfinger occupier agent or employer shall refuse or neglect to attend such summons, then every such justice is hereby empowered to issue his warrant to bring such person summoned before him to answer such complaint, and to examine upon oath any such bargeman lighterman waterman ballastman (other than any Trinity ballastman) coal whipper coal porter sailor lumper rigger shipwright caulker or other labourer, or any other witness or witnesses touching any such complaint or dispute, and to make such order for payment of so much wages to such bargeman lighterman waterman ballastman (other than any Trinity ballastman) coal whipper coal porter sailor lumper rigger shipwright caulker or other labourer as to such justice shall seem just and reasonable; provided that the sum ordered do not exceed five pounds, besides all reasonable costs attending the prosecution of the complaint, which costs the justice is empowered to order; and in case of refusal to pay, or non-payment of any sum so ordered by the space of twenty-four hours next after such determination, such justice may issue forth his warrant to levy the same by distress and sale of the goods and chattels of the person ordered to pay the same, together with the charges of such distress and sale; and if no sufficient distress shall be found, such justice shall commit the person ordered to make such payment to prison for any time not exceeding one month, unless the sum so ordered shall be sooner paid; and every such order shall be final and conclusive to all intents and purposes, and shall not be removable by *certiorari* or otherwise into any court whatsoever.

Jurisdiction for determining Disputes about Wages for Labour done on the Thames, &c.

XLV. Provided always and be it further enacted, That nothing herein contained shall extend to authorize or empower any justice, except the lord mayor, aldermen, and recorder of the city of *London* for the time being, or some or one of them, to hear and determine any such differences complaints or disputes as shall or may arise for or in respect of any employment or work done within the said city of *London* or the suburbs and liberties thereof, or on board of any ship hoy barge lighter boat or other vessel lying or being on the north side of the river, between the Tower of *London* and the western extremity of the Temple adjoining *Essex-street*, in the county of *Middlesex*.

Not to affect the Rights of the City of London.

XLVI. Provided always and be it further enacted, That nothing in this Act shall extend to deprive the lord mayor and commonalty and citizens of the city of *London* of any right privilege or jurisdiction heretofore lawfully claimed exercised or enjoyed within the town and borough of *Southwark* or the liberties thereof, or to prevent the said lord mayor for the time being, or such of the aldermen of the said city as have borne the office of mayoralty, or the recorder of the said city for the time being, from acting as justices of the peace within the said town and borough of *Southwark* and the liberties thereof, in such and the like manner as they could or might have done in case this Act had not been made; nor to deprive the lord mayor and commonalty and citizens of the said city of any right privilege immunity or jurisdiction which

they have heretofore lawfully claimed exercised or enjoyed upon the said river, or the lord mayor of the said city for the time being as conservator of the said river; nor to prevent the said lord mayor and the said aldermen and recorder of the said city from acting as justices of the peace upon the said river or taking cognizance of offenders committed upon or within the limits of the same, in such manner as they might or would have done in case this Act had not been made.

Nor the Dean or High Steward of Westminster.

XLVII. Provided also and be it further enacted, That nothing in this Act shall extend to deprive the dean and chapter of the collegiate church of *Saint Peter Westminster* or the high steward or high bailiff of the city and liberty of *Westminster* for the time being, or their respective lawful deputy, of any rights privileges or jurisdictions which they have heretofore lawfully claimed exercised or enjoyed within the said city and liberty, in such and the like manner as they could or might have done in case this Act had not been made.

Not to affect the Rights of the Trinity Brethren, &c.

XLVIII. Provided also and be it further enacted, That nothing in this Act contained shall extend to prejudice or derogate from any of the rights privileges or authorities of the master warden and assistants of the guild fraternity or brotherhood of the most glorious and undivided Trinity, and of *Saint Clement*, in the parish of *Deptford Strond*, in the county of *Kent*.

Publick Act.

XLIX. And be it further enacted, That this Act shall be deemed adjudged and taken to be a publick Act; and shall be judicially taken notice of as such by all judges justices and other persons whomsoever, without the same being specially pleaded.

PART VI.

CLASS XXIV.

Lord's Day.

2. [No. I.] 1 Elizabeth, c. 2.—An Act for the Uniformity of Common Prayer and Service in the Church, and Administration of the Sacraments.*

1 Elizabeth, c. 2.

Every Person shall resort to the Church upon the Holy Days.

One Justice may convict the Offender, by 3 Jac. 1. c. 4. § 27.

The Forfeiture for not coming to Church.

XIV. AND that from and after the said Feast of the Nativity of *St John Baptist* next coming all and every person and persons inhabiting within this realm or any other the Queen's Majesty's dominions shall diligently and faithfully, having no lawful or reasonable excuse to be absent, endeavour themselves to resort to their parish church or chapel accustomed, or upon reasonable let thereof to some usual place where common prayer and service of God shall be used in such time of let upon every *Sunday* and other days ordained and used to be kept as holy days, and then and there to abide orderly and soberly during the time of the common prayer preaching or other service of God there to be used and ministered; (2) upon pain of punishment by the censurers of the church, and also upon pain that every person so offending shall forfeit for every such offence twelve pence, to be levied by the churchwardens of the parish where such offence shall be done, to the use of the poor of the same parish, of the goods lands and tenements of such offender by way of distress.

* For the general Contents of this Statute, see Part V. Class I. No. 42.

[No. II.] 3 James I. c. 4.—An Act for the better discovering and repressing of Popish Recusants.*

3 James I. c. 4.

1 Eliz. c. 2.

Forfeiture for not repairing to Church weekly,

XXVII. AND be it further enacted, That if any subject of this realm, at at any time after one month next after the end of this present session of Parliament, shall not resort or repair every *Sunday* to some church chapel or some other usual place appointed for common prayer, and there hear divine service according to the statute made in that behalf in the first year of the reign of the late Queen *Elizabeth*, that then it shall and may be lawful to and for any one justice of peace of that limit division or liberty wherein the said party shall dwell, upon proof unto him made of such default by confession of the party or oath of witness, to call the said party before him; and if he or she shall not make a sufficient excuse and due proof thereof to the satisfaction of the said justice of peace, that it shall be lawful for the said justice of peace to give warrant to the churchwardens of the said parish wherein the said party shall dwell, under his hand and seal, to levy twelve pence for every such default by distress and sale of the goods of every such offender, rendering to the said offender the overplus of the money raised of the said goods so to be sold; and that in default of such distress it shall and may be lawful for the said justice of peace to commit every such offender to some prison within the

* For other part see Part V. Class I. No. 54.

said shire division limit or liberty wherein such offender shall be inhabiting until payment be made of the said sum or sums so to be forfeited; which forfeiture shall be employed to and for the use of the poor of that parish wherein the offender shall be resident or abiding at the time of such offence committed.

XXVIII. Provided, That no man be impeached upon this clause except he be called in question for his said default within one month next after the said default made.

[No. III.] 1 Charles I. c. 1.—An Act for punishing divers Abuses committed on the Lord's Day, called *Sunday*.

1 Car. I. c. 1.

'FORASMUCH as there is nothing more acceptable to God than the 'true and sincere service and worship of Him according to his holy 'will, and that the holy keeping of the Lord's day is a principal part of 'the true service of God, which in very many places of this realm hath 'been and now is profaned and neglected by a disorderly sort of people in 'exercising and frequenting bear-baiting bull-baiting interludes common 'plays and other unlawful exercises and pastimes upon the Lord's day; 'and for that many quarrels bloodsheds and other great inconveniences 'have grown by the resort and concourse of people going out of their own 'parishes to such disordered and unlawful exercises and pastimes, 'neglecting divine service both in their own parishes and elsewhere;'

There shall be no Assemblies for unlawful Pastimes upon the Lord's Day.

(2) Be it enacted by the King's most excellent Majesty the Lords Spiritual and Temporal and the Commons in this present Parliament assembled, and by the authority of the same, That from and after forty days next after the end of this session of Parliament there shall be no meetings assemblies or concourse of people out of their own parishes on the Lord's day within this realm of *England* or any the dominions thereof for any sports and pastimes whatsoever: (3) nor any bear-baiting bull-baiting interludes common plays or other unlawful exercises and pastimes used by any person or persons within their own parishes: (4) and that every person or persons offending in any the premises shall forfeit for every offence three shillings four pence, the same to be employed and converted to the use of the poor of the parish where such offence shall be committed; (5) and that any one justice of the peace of the county, or the chief officer or officers of any city borough or town corporate where such offence shall be committed upon his or their view or confession of the party, or proof of any one or more witness by oath which the said justice or chief officer or officers shall by virtue of this Act have authority to minister shall find any person offending in the premises, the said justice or chief officer or officers shall give warrant under his or their hand and seal to the constables and churchwardens of the parish or parishes where such offence shall be committed to levy the said penalty so to be assessed by way of distress and sale of the goods of every such offender, rendering to the said offender the overplus of the money raised of the said goods so to be sold; and in default of such distress that the party offending be set publickly in the stocks by the space of three hours; (6) and that if any man be sued or impeached for execution of this law he shall and may plead the general issue and give the said matter of justification in evidence; (7) Provided, That no man be impeached by this Act except he be called in question within one month next after the said offence committed: (8) Provided also, That the ecclesiastical jurisdiction within this realm or any the dominions thereof by virtue of this Act or any thing therein contained shall not be abridged, but that the Ecclesiastical Court may punish the said offences as if this Act had not been made. (9) This Act to continue until the end of the first session of the next Parliament and no longer. [3 Car. 1. c. 4. continued until the end of the first session of the next Parliament, and farther continued by 16 Car. 1. c. 4. and enforced by 29 Car. 2. c. 7.]

Unlawful Meetings and Pastimes on the Lord's Day forbidden.

Every Person using any unlawful Pastimes on the Lord's Day shall forfeit 3s. 4d. to the Poor of the Parish.

After Conviction by Warrant from a Justice, &c. the Constables, &c. may levy the Penalty, &c.

General Issue.

Limitation of Action.

The Ecclesiastical Jurisdiction not abridged.

No. IV.
3 Charles I. c. 1.

[No. IV.] 3 Charles I. c. 1.—An Act for the further Reformation of sundry Abuses committed on the Lord's Day, commonly called *Sunday*.

3 Charles I. c. 1.

'FORASMUCH as the Lord's day, commonly called *Sunday*, is much broken and profaned by carriers waggoners carters wain-men 'butchers and drovers of cattle, to the great dishonour of God and reproach of religion;' Be it therefore enacted by the King's most excellent Majesty, and Lords Spiritual and Temporal and by the Commons in this present Parliament assembled, and by the authority of the same, That no carrier with any horse or horses, nor waggon-men with any waggon or waggons, nor carman with any cart or carts, nor wainman with any wain or wains, nor drovers with any cattle, shall after forty days next after the end of this present session of Parliament, by themselves or any other travel upon the said day upon pain that every person and persons so offending shall lose and forfeit twenty shillings for every such offence: or if any butcher by himself or any other for him by his privity or consent shall after the end of the said forty days kill or sell any victual upon the said day, that then every such butcher shall forfeit and lose for every such offence the sum of six shillings and eight pence; (1.) the said offences and every of them being done in view of any justice of peace mayor or other head officer of any city or town corporate within their limits respectively, or being proved upon oath by two or more witnesses or by the confession of the party offending before any such justice mayor or head officer within their several limits respectively wherein such offence shall be committed: to which end every such justice mayor or head officer shall have power by this Act to minister an oath to such witness or witnesses: all which sums or penalties shall or may be levied by any constable or churchwarden by warrant from any such justice or justices of the peace mayor or other head officer as aforesaid within their several limits where such offence shall be committed or done, by distress and sale of the offender's goods, rendering to the party the overplus, or shall be recovered by any person or persons that will sue for the same by bill plaint or information in any of his Majesty's courts of record in any city or town corporate, before his Majesty's justices of the peace in their general sessions of the peace: all which forfeitures shall be employed to and for the use of the poor of the parishes where the said offence shall be committed or done, saving only that it shall be lawful to and for any such justice mayor or head officer out of the said forfeitures to reward any such person or persons that shall inform or otherwise prosecute any person or persons offending against this present Act according to their discretions, so that such reward exceed not the third part of the forfeiture: Provided that such bill plaint or information shall be commenced sued and prosecuted in the county city or town corporate where such offence shall be committed and done and not elsewhere; wherein no essoign protection or wager of law shall be allowed to the defendant: Provided always, That it shall be lawful for any constable or churchwarden that shall have any suit or action brought against them for any distress by them or any of them to be taken by force of this present Act to plead the general issue and to give the special matter in evidence: Provided likewise, That no person or persons whatsoever shall be impeached by this Act, unless he be thereof questioned within six months after the offence committed: Provided further, That this Act shall not in any sort abridge or take away the authority of the Courts Ecclesiastical. This Act to continue to the end of the first session of the next Parliament. [Enforced by 29 Car. 2. c. 7. *and see farther* 10 & 11 *W.* 3. c. 24. *sect.* 14.]

A Carrier, &c. that travels on the Lord's Day shall forfeit 20*s.*

Butchers that sell or kill Victual upon that Day shall forfeit 6*s.* 8*d.*

After Conviction, and by Warrant from a Justice, &c. the Constables, &c. may levy the said Forfeitures to the Use of the Poor, or they may be recovered by Suit.

(1.) An Indictment against a Butcher for selling Meat on a Sunday, must conclude contra Formam Statuti: Rex *v.* Brotherton, 1 Str. 702.

[No. V.] 29 Charles II. c. 7.—An Act for the better Observation of the Lord's Day, commonly called *Sunday.*

No. V.
29 Car. II. c. 7.

29 Charles II. c. 7.

FOR the better observation and keeping holy the Lord's day, commonly called *Sunday;* Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and of the Commons in this present Parliament assembled, and by the authority of the same, That all the laws enacted and in force concerning the observation of the Lord's day, and repairing to the church thereon be carefully put in execution; and that all and every person and persons whatsoever shall on every Lord's day apply themselves to the observation of the same, by exercising themselves thereon in the duties of piety and true religion, publickly and privately; and that no tradesman, artificer, workman, labourer or other person whatsoever shall do or exercise any worldly labour business or work of their ordinary callings (1.) upon the Lord's day, or any part thereof (works of necessity (2.) and charity only excepted;) and that every person being of the age of fourteen years or upwards offending in the premises shall for every such offence forfeit the sum of five shillings; (3.) and that no person or persons whatsoever shall publickly cry shew forth or expose to sale any wares merchandizes fruit herbs goods or chattels whatsoever upon the Lord's day or any part thereof upon pain that every person so offending shall forfeit the same goods so cried or shewed forth or exposed to sale.

Tradesmen, Artificers, and Labourers.

None shall cry or expose to Sale Wares.

II. And it is further enacted, That no drover horse-courser waggoner butcher higler their or any of their servants shall travel or come into his or their inn or lodging upon the Lord's day or any part thereof upon pain that each and every such offender shall forfeit twenty shillings for every such offence; and that no person or persons shall use employ or travel upon the Lord's day with any boat (4.) wherry lighter or barge, except it be upon extraordinary occasion to be allowed by some justice of the peace of the county or head officer or some justice of the peace of the city borough or town corporate where the fact shall be committed; upon pain that every person so offending shall forfeit and lose the sum of five shillings for every such offence. And that if any person offending in any of the premises shall be thereof convicted before any justice of the peace of the county or the chief officer or officers or any justice of the peace of or within any city borough or town corporate where the said offences shall be committed, upon his or their view or confession of the party or proof of any one or more witnesses by oath (which the said justices chief officer or officers is by this Act authorised to administer) the said justice or chief officer or officers shall give warrant under his or their hand and seal to the constables or churchwardens of the parish or parishes where such offence shall be committed to seize the said goods cried shewed forth or put to sale as aforesaid, and to sell the same and to levy the said other forfeitures or penalties by way of distress and sale of the goods of every such offender distrained, rendering to the said offenders the overplus of

Drovers, Horse-coursers, Waggoners, Butchers and Higlers, Boats and Barges.

In what Manner the Conviction shall be.

The Penalty how to be levied.

(1.) In Drury *v.* Defontaine, 1 Taunt. 131. it was ruled that a Sale of a Horse on a Sunday was not void, such Sale not being within the ordinary Calling of the Plaintiff or his Agent but Mansfield, C. J. intimated an opinion, that if it had been such ordinary Calling the Contract would have been void.

(2.) The baking Provisions for Customers is within this exception, and (come semble) within the exception in Section 3. as to Cooks' Shops: R. *v.* Cox, 2 Bur. 787; R. *v.* Younger, 5 T. R. 449. But baking Rolls on a Sunday is within the Act: Crepps *v.* Durden, Cowp. 641; and by 34 Geo. 3. c. 61. no Baker in the City of London, or within Twelve Miles thereof, shall make, bake, or expose to Sale, any Bread or Rolls; or bake any Meat Puddings, Pies, or Tarts; or in any other manner exercise the Trade of a Baker on the Lord's Day, on Pain of forfeiting 10*s.*; and for want of Distress to be committed to the House of Correction for Seven Days: provided, that the Act shall not extend to prohibit the selling of Bread, or baking Meat Puddings or Pies, between Nine in the Forenoon and One in the Afternoon, so as the Person requiring the baking thereof carry or send the same to and from the Place where baked.

(3.) The Penalty can only be incurred once on the same Day: Crepps *v.* Durden, Cowp. 640.

(4.) By 11 & 12 W. 3. c. 24. § 13: Forty Watermen may ply on the Thames, between Vauxhall and Limehouse.

No. V.
29 Car. II. c. 7.

In case of Insufficiency, the Offender shall be set in the Stocks.

The Forfeitures how to be disposed of.

the monies raised thereby, and in default of such distress or in case of insufficiency or inability of the said offender to pay the said forfeitures or penalties, that then the party offending be set publickly in the stocks by the space of two hours. And all and singular the forfeitures or penalties aforesaid shall be employed and converted to the use of the poor of the parish where the said offences shall be committed, saving only that it shall and may be lawful to and for any such justice mayor or head officer or officers out of the said forfeitures or penalties to reward any person or persons that shall inform of any offence against this Act according to their discretions, so as such reward exceed not the third part of the forfeitures or penalties.

A Provision for private Families, Victualling-houses, &c

III. Provided, That nothing in this Act contained shall extend to the prohibiting of dressing of meat in families or dressing or selling of meat in inns cooks-shops or victualling-houses for such as otherwise cannot be provided, nor to the crying or selling of milk before nine of the clock in the morning or after four of the clock in the afternoon

The Prosecution to be within Ten Days.

IV Provided also, That no person or persons shall be impeached prosecuted or molested for any offence before-mentioned in this Act, unless he or they be prosecuted for the same within ten days after the offence committed. (5)

The Hundred not responsible to Persons travelling on the Lord's Day; but shall make fresh Suit after the Offenders.

V. Provided and be it further enacted by the authority aforesaid, That if any person or persons whatsoever which shall travel upon the Lord's day shall be then robbed, that no hundred or the inhabitants thereof shall be charged with or answerable for any robbery so committed, but the person or persons so robbed shall be barred from bringing any action for the said robbery; any law to the contrary notwithstanding: Nevertheless the inhabitants of the counties and hundreds (after notice of any such robbery to them or some of them given or after hue and cry for the same to be brought) shall make or cause to be made fresh suit and pursuit after the offenders with horsemen and footmen according to the statute made in the twenty-seventh year of the reign of Queen *Elizabeth*, upon pain of forfeiting to the King's Majesty his heirs and successors as much money as might have been recovered against the hundred by the party robbed if this law had not been made.

27 Eliz. c. 13.

Service of Process on the Lord's Day shall be void.

VI. Provided also, That no person or persons upon the Lord's day shall serve or execute or cause to be served or executed any writ process warrant order judgment or decree (except in cases of treason felony or breach of the peace) but that the service of every such writ process warrant order judgment or decree shall be void to all intents and purposes whatsoever: and the person or persons so serving or executing the same shall be as liable to the suit of the party grieved and to answer damages to him for doing thereof as if he or they had done the same without any writ process warrant order judgment or decree at all. (6)

(5.) By 10 & 11 W. 3. c. 24. § 14. Mackarel may be sold before or after Divine Service.

(6.) The following Note upon this Subject was subjoined by the Editor to the Case of Wilson *v.* Tucker, 1 Salk. 78. in the sixth edition of that Work. The Addition in Brackets contains the Cases since decided.

"Before the Statute, ministerial Acts upon a Sunday were lawful 9 Co. 660, 2 Cro. 280; 2 Bul. 72. A Defendant arrested on another Day and escaping, may be retaken on a Sunday; Mod. Ca. 231. So a person may be taken on an escape Warrant; Parker *v.* Moor, 2 Salk. 626: but not after a voluntary Escape; Featherstonehaugh *v.* Atkinson, Barn. 373: nor a Person arrested and liberated, there being, at the time of the liberation, a Detainer at the Suit of another Person; Atkinson *v.* Jameson, 5 T R. 25. Bail may seize their Principal, Mod. Ca. 231: but not Sheriff's Bail; Brookes *v.* Warren, 2 Bl. Rep. 1273. A Person may be arrested on a Sunday on the Lord Chancellor's Warrant, on an Order of Commitment for a Contempt; 1 Atk. 55: not upon an Attachment for Nonperformance of an Award; Dut. 1 T. R. 265. A Person convicted by Justices on a penal Statute cannot be apprehended on a Sunday for Want of Distress; Rex *v.* Myers, 1 T. R. 265." [A Rule Nisi, for an Attachment for Nonpayment of Money, cannot be served on a Sunday; Mc. Ileham *v.* Smith, 8 T. R. 86. Service of Notice of Plea, filed on a Sunday, is void; Roberts *v.* Makhouse, 8 East, 547. A Writ returnable on a Sunday must be executed at latest, on the Saturday; Leveridge *v.* Plaistow, 2 H B. 29. The Service of any Process on Sunday is absolutely void, and cannot be made good by any subsequent Waiver; Taylor *v.* Phillips, 3 E. 155.]

PART VI.

CLASS XXV.

Lunatics.

[No. I.] 17 George II. c. 5.—An Act to amend and make more effectual the Laws relating to Rogues, Vagabonds, and other idle and disorderly Persons, and to Houses of Correction.

[See post. title *Vagrants*, Class 38. No. 2.—Sections 20 and 21 relate to the Confinement of Persons furiously mad.]

[No. II.] 14 George III. c. 49.—An Act for regulating Madhouses.

14 George III. c. 49.

'WHEREAS many great and dangerous abuses frequently arise from 'the present state of houses kept for the reception of lunatics for 'want of regulations with respect to the persons keeping such houses 'the admission of patients into them and the visitation by proper persons 'of the said houses and patients: And whereas the law as it now stands 'is insufficient for preventing or discovering such abuses;' May it therefore please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the twentieth day of *November* one thousand seven hundred and seventy-four if any person or persons in that part of *Great Britain* called *England* the dominion of *Wales* or town of *Berwick-upon-Tweed* shall upon any pretence whatsoever conceal harbour entertain or confine in any house or place kept for the reception of lunatics more than one lunatic at any one time, without having such licence for that purpose as is herein-after directed (except such lunatics as are committed by the Lord High Chancellor of *Great Britain* or lord keeper or commissioners for the custody of the great seal for the time being) every such person shall for every such offence forfeit and pay the sum of five hundred pounds.

If any Person conceal more than one Lunatic without Licence, he forfeits 500*l.*

II. 'And in order that proper persons may be appointed for visiting such 'houses as shall be licensed and kept for the reception of lunatics within 'the cities of *London* and *Westminster* and within seven miles of the 'same and within the county of *Middlesex*,' Be it further enacted by the authority aforesaid, That the president and fellows of the Royal College of Physicians in *London* for the time being, at a general meeting of the said college to be held upon the last day of *September*, or if that day falls upon *Sunday* then upon the first day of *October* in every year, shall elect five fellows of the said college for granting such licences as aforesaid within the said cities of *London* and *Westminster* and within seven miles of the same and within the said county of *Middlesex* according to the directions of this Act; and the said five fellows so elected shall be and are hereby declared to be commissioners for granting such licences within the limits aforesaid for the year then next ensuing; provided that two at least of the said fellows to be so elected shall be persons who have not acted as commissioners for the preceding year; and that no person whatsoever

College of Physicians, yearly, may elect five Fellows for granting Licences, &c.

No. II.
14 Geo. III. c. 49.

shall be capable of being elected or of acting as a commissioner for more than three years successively.

III. And be it further enacted, That in case at any time of election there shall not be found a sufficient number of fellows qualified or willing to act as commissioners the said president and fellows are hereby required upon every such deficiency to elect one or more from among the licenciates to supply the same.

In case of Death, &c. President to call Meeting for Election of another.

IV. And be it further enacted by the authority aforesaid, That as often as any of the commissioners to be elected as aforesaid shall die or refuse to act, the said president is hereby required to call a meeting of the said fellows within fourteen days next after such death or refusal shall be known to the said president in order to elect a commissioner in the room of every commissioner who shall so die or refuse to act; and every commissioner so to be elected shall be and is hereby vested with the same power and authority in all respects whatsoever as the commissioner in whose place he shall be chosen was vested with.

Commissioner to take following Oath.

V. And be it further enacted, That every person who shall be elected a commissioner to act within the cities of *London* and *Westminster* and within seven miles of the same and within the county of *Middlesex* as aforesaid, shall within ten days after such election take the following oath; (that is to say)

'I *A. B.* do swear, That I will faithfully and impartially execute all the trusts committed unto me, by virtue of an Act of Parliament made in the fourteenth year of the reign of King *George* the Third, intituled "An Act for regulating Madhouses;" and that I will not directly or indirectly give notice or cause notice to be given to the keeper or person having the care of any house or place licensed for the reception of lunatics of the time of visitation of such house or place.

'So help me God.'

Commissioners not attending, or refusing to take the Oath, forfeit 5*l.*

Which oath it shall and may be lawful for the president of the College of Physicians for the time being to administer to every such commissioner so to be elected as aforesaid upon the day he shall be so elected or within ten days afterwards: and in case any person who shall be elected a commissioner as aforesaid and who shall be summoned by the president of the said college to attend the said president to take the said oath at such time as shall be mentioned in such summons shall refuse or neglect to attend or attending shall refuse to take the said oath he shall forfeit and pay the sum of five pounds to be applied to the use of the said college.

Meetings to be in the College Hall, &c.

VI. And be it further enacted by the authority aforesaid, That the said commissioners so to be elected as aforesaid or any three or more of them shall meet in the hall or some other convenient place in the said college as often as they shall think fit so as such meetings do not interfere with the meetings of the board of censors nor with any other general meeting of the College of Physicians; and that at all meetings of the said commissioners to be holden for the purposes of this Act the commissioner who is of the longest standing in the college shall be the chairman.

Treasurer of the College to be Treasurer for the Purposes of this Act.

Secretary to be appointed; who shall take the Oath.

VII. And be it further enacted, That the treasurer of the said college for the time being shall be the treasurer for the purposes of this Act; and that the said commissioners or any three or more of them shall at some meeting to be holden within fourteen days next after they shall be elected as aforesaid chuse and appoint a proper person to be their secretary for the year then ensuing; and such secretary shall be paid such salary or gratuity for his trouble and attendance in the execution of his office by the said treasurer as the said commissioners or any three or more of them shall order and direct; and every such secretary shall at the next meeting of the said commissioners after he shall be so appointed take the following oath:

'I *A. B.* do swear, That I will faithfully execute all such trusts as shall be committed to my charge as secretary to the commissioners for executing an Act of Parliament made in the fourteenth year of the

'reign of King *George* the Third, intituled "An Act for regulating 'Madhouses;" and that I will keep secret all such matters as shall come 'to my knowledge in the execution of my office (except when required 'to divulge the same by legal authority).

'So help me God.'

Time of the Commissioners Annual Meeting for granting Licences.

VIII. And be it further enacted, That the said commissioners or any three or more of them shall meet annually on the third *Wednesday* in the month of *October* or within ten days afterwards, in order to grant licences to persons for keeping houses for the reception of lunatics for one year from the twentieth day of *November* then next ensuing, within the said cities of *London* and *Westminster* and within seven miles of the same and within the said county of *Middlesex;* but notice of the place and of the day and hour of every meeting for granting such licences shall always be published three several times in the *London Gazette* before the day of meeting for granting any such licences (which licences they are hereby required to grant to all persons who shall desire the same); and all licences to be granted by the said commissioners shall be duly stamped with a five shillings stamp and shall be under the hands and seals of three or more of the said commissioners, for each of which licences there shall be paid to the said secretary by the person applying to take out the same the sums following; (that is to say), For each and every house wherein there shall be kept any number of lunatics not exceeding ten the sum of ten pounds; and for each and every house wherein there shall be kept above ten the sum of fifteen pounds and no more, over and above what shall have been paid for the said stamp: which money shall be paid over by the said secretary to the said treasurer; and the further sum of six shillings and eight pence and no more shall be paid on every such licence to the said secretary for his fee.

Licences to be stamped.

Sums to be paid by Persons taking out Licences.

IX. Provided always, That no one licence shall authorise any person or persons to keep more houses than one for the reception of lunatics; nor shall any licence to be granted by virtue of this Act continue in force for any longer time than for one year.

No Commissioner to keep any House for Lunatics, &c.

X. And be it further enacted by the authority aforesaid, That no commissioner to be appointed as aforesaid shall directly or indirectly during the time he shall be a commissioner be interested in keeping any house for the reception of lunatics, upon pain of forfeiting for such offence the sum of fifty pounds.

President to summon Commissioners Attendance for the first Meeting.

XI. And be it further enacted, That the president of the said College of Physicians for the time being shall and is hereby required to cause summons to be sent to the said several commissioners, requiring them to attend at the first meeting after they shall be appointed commissioners as aforesaid; all which summons shall be sent by the beadle or such other person belonging to the said college, as the said president shall think proper; and shall be left at the respective houses or usual places of abode of each commissioner.

Two Commissioners may call a Meeting.

XII. Provided nevertheless, That in case any two commissioners shall at any time or times think proper to call a meeting of the said commissioners, such two commissioners may themselves cause the like notice to be given and to be sent in manner aforesaid to the other commissioners, requiring their attendance at such time and place as shall be expressed in such notice.

Chairman casting Vote.

XIII. Provided always, That at all meetings of the said commissioners in the execution of this Act, in case of an equality of votes the chairman shall have the casting vote.

Commissioners to visit and inspect.

XIV. And be it further enacted, That the said commissioners or any three or more of them, either by themselves or with their secretary as they shall think fit, shall and they are hereby required once at least in every year, and whenever required by the Lord High Chancellor or Lord Keeper or Commissioners for the custody of the Great Seal or by the Lord Chief Justice of the Court of King's Bench or by the Lord Chief Justice of the Court of Common Pleas for the time being, to visit and inspect all such houses as shall have been licenced by them as aforesaid, between the hours of eight and five in the day-time; and may in like manner at

No. II.
14 Geo. III.
c. 49.

any other time or times within the hours aforesaid visit and inspect all such houses as often as they or any three or more of them shall think necessary, and shall have at all such times liberty and power to continue in such house and to examine the persons confined as lunatics therein, for such time as they shall think proper.

At such Visitation to make Minutes, &c.

XV. And be it further enacted, That the said commissioners or their secretary shall at every such visitation make minutes in writing of the state and condition of all such houses which they shall so visit as to the care of the patients therein and all such other particulars as they shall think deserve their notice, together with their observations thereupon; all which minutes shall within one week next after such visitation be by the said secretary entered by way of report in a register to be kept by him in the said College of Physicians for that purpose, and the same shall be read to and signed by the said commissioners or any three or more of them at their next meeting; but no minute which tends to impeach the character of any house shall be so entered, unless such minute shall have been previously signed by three or more of the said commissioners who shall have been present at such visitation; and in case the commissioners upon their visitation shall discover any thing that in their opinion shall deserve censure or animadversion, they shall in that case report the same; and such part of their report and no more shall be hung up in the censors' room of the college, to be perused and inspected by any person who shall apply for that purpose.

Refusing Admittance, to forfeit Licence.

XVI. And be it further enacted, That in case the keeper of any house or place for the reception of lunatics within the cities of *London* or *Westminster* or within seven miles distance thereof or within the county of *Middlesex* shall refuse all or any of the said commissioners at the time of their visitation admittance into such house or place as aforesaid with or without their secretary, the master or keeper of such house or place shall for such offence forfeit his licence.

Commissioners to keep an exact Account.

XVII. And be it further enacted, That the said commissioners or any three or more of them shall from time to time cause an exact account to be kept of all their proceedings; and all such accounts shall be entered in the same register as the minutes taken at their visitations are directed to be entered as aforesaid; and the said register shall be lodged in the College of Physicians in a strong chest or box, which said chest or box shall be under the care of the beadle or housekeeper belonging to the said college, and shall be carefully locked up from time to time by the secretary to the said commissioners and the key thereof kept by such secretary; which said register shall be deemed to belong to the said commissioners, and the key of the said chest or box shall be delivered over to every succeeding secretary whenever the former secretary shall go out of office, and be kept by such succeeding secretary in manner aforesaid for the use of the said commissioners.

President to inspect Registers.

XVIII. Provided always, That the president of the said college shall have liberty to inspect the said register from time to time as often as he shall think proper, provided such inspection be made at the college and in the presence of the secretary to the said commissioners.

On Application to Commissioners, Secretary to make search.

XIX. And be it further enacted, That if any person shall apply to one of the commissioners in order to be informed whether any particular person or persons have been confined in any of the said licensed houses, and the said commissioners shall think it reasonable to permit such inquiry to be made, and shall sign an order directed to the secretary for that purpose; he the said secretary is hereby required upon the receipt of such order to make search upon his papers: and if it shall appear upon such search that the person or persons so inquired after have been confined in any of the said houses, the said secretary shall immediately acquaint the persons so applying with the name of the keeper in whose house and also the names of those by whose direction and advice such person or persons have been so confined.

One Guinea to be paid, on each Inspection, to each Commissioner.

XX. And be it further enacted, That the said treasurer shall and is hereby required to pay to each of the said commissioners for every time

they shall in obedience to this Act or any requisition therein contained visit and inspect any such licensed house or place as aforesaid within the limits aforesaid the sum of one guinea; and shall also pay and discharge all such reasonable expences of the said commissioners as they shall from time to time incur in the execution of this Act; and the said treasurer is hereby required from time to time to keep an exact and true account of all monies by him received and disbursed in relation to this Act, and shall enter such account in a book to be kept for that purpose; which book shall be lodged in the box or chest where the register of the proceedings of the said commissioners is directed to be kept as aforesaid; which accounts shall be produced to the president of the said college when required by the said president and elects to be examined and settled by them: and if upon such examination the said accounts shall appear to be just and reasonable, the same shall be allowed and signed by the said president and at least four of the elects, and shall be by the said president reported, together with the other accounts at the next general meeting of the said college; and the said account being so allowed signed and reported, shall be a full discharge to the said treasurer for so much money as shall in such account appear to have been disbursed by him on account of the execution of this Act.

Notice to be given, within Three Days after Admission of Patients, by the Keeper.

XXI. 'And in order that the said commissioners may know when any 'patient is received into any such licensed house or place as aforesaid,' Be it further enacted by the authority aforesaid, That the keeper of every such licensed house or place within the said cities of *London* and *Westminster* and within seven miles of the same and within the said county of *Middlesex* is hereby required within the space of three days after any patient shall be received into any such licensed house or place (except such pauper lunatics as shall happen to be sent there by parish officers) to cause notice thereof to be given to the secretary to the said commissioners, which notice shall contain the name of every such person received as a lunatic into such house or place, the name or names and place or places of abode of the person or persons by whose direction such lunatic was sent to such house or place, and also the name and place of abode of the physician surgeon or apothecary by whose advice such direction was given; all which notices shall be sent sealed up, directed *To the Secretary to the Commissioners for licensing Houses for the Reception of Lunatics:—To be left with the Beadle of the College of Physicians in* London: all which notices the said beadle is hereby directed to receive and to deliver to the said secretary within two days after the same shall come to his hands; and the secretary is hereby required to file and preserve all such notices, and also to enter or cause a copy or extract thereof to be entered in the register within two days after the receipt of such notices; and every keeper of any such licensed house or place who shall admit harbour entertain or confine any person as a lunatic without having an order in writing under the hand and seal of some physician surgeon or apothecary, that such person is proper to be received into such house or place as a lunatic, or shall receive any lunatic into any such house or place having such order, and shall not give notice thereof to the secretary of the said commissioners within the time and in the manner aforesaid, shall forfeit and pay the sum of one hundred pounds.

How to be directed.

Keepers admitting Lunatics without an Order forfeit 100*l.*

No more than one Lunatic to be kept in any House, &c.

XXII. 'And, in order that such houses or places for the reception 'of lunatics as are not situated within the limits aforesaid may be put 'under some regulation,' Be it further enacted, That no house which is not within the said city of *London* or within seven miles of the same or within the said county of *Middlesex* shall be kept for the reception of more than one lunatic, unless such house or place shall be licensed by the justices of the peace at some quarter sessions of the peace to be holden for the county or place wherein such house or place shall be situated.

Justices to grant Licences at General Quarter Sessions; and receive, &c.

XXIII. And be it further enacted, That the justices of the peace at any general quarter sessions of the peace to be holden for any such county or place are hereby authorised and required to grant licences to

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such person and persons as shall apply for that purpose, such person or persons paying for each licence the sums following; (that is to say), for each and every house wherein there shall be kept any number of lunatics, not exceeding ten, the sum of ten pounds and no more; and for each and every house wherein there shall be kept above the number of ten lunatics the sum of fifteen pounds and no more; and that no one licence shall authorise any person or persons to keep more houses than one for the reception of lunatics, nor shall any such licence be granted for any longer term than for one year; and the said justices shall at the time of granting such licences as aforesaid nominate and appoint two justices of the peace for the said county and also one physician to visit and inspect all such houses as shall be licensed by such justices as aforesaid; and the said justices and physicians so nominated and appointed, or any two of them, whereof the physician to be one, may and are hereby authorised and empowered to visit in the day-time every house so licensed within the county where such house or place shall be so licensed, as often as they shall think fit.

Justices, at Visitations, to make Minutes, &c.

XXIV. And be it further enacted, That the said justices and physician so nominated, or such of them as shall visit any licensed house as aforesaid, may at every visitation if they think necessary make or cause to be made minutes in writing of the state and condition of every house which they shall visit as to the care of the patients therein, and all such other particulars as they shall think deserve their notice, together with their observations thereupon; all which minutes shall be entered by way of report in a register to be kept for that purpose by the clerk of the peace for the county where such house or houses shall be licensed as aforesaid, a copy whereof shall from time to time be sent by the said clerk of the peace to the secretary to the said commissioners, to be by him inserted in a separate register; which register shall be kept in the same box and in the same manner as the register belonging to the said commissioners is herein-before directed to be kept; and the said clerk of the peace shall be paid such sum and sums of money for his trouble in the execution of this Act as the said justices shall order and direct; and all money to be paid for such licences as shall be granted by the said justices of the peace as aforesaid shall be paid to the clerk of the peace as aforesaid, who shall keep an account thereof in a book or books to be kept for that purpose, and shall account for the same to the said justices as often as he shall be required so to do; and all expences attending the execution of this Act (except within the cities of *London* and *Westminster* and within seven miles thereof and also except within the said county of *Middlesex*) shall be defrayed out of such money as aforesaid, in such manner as the said justices shall from time to time within their respective counties order and direct.

Clerk of the Peace to take Oath.

XXV. And be it further enacted, That at such general quarter session, when such justices and physicians shall be appointed as aforesaid, the clerk of the peace shall take the like oath as is appointed by this Act to be taken by the secretary of the commissioners.

Keepers refusing Admittance forfeit Licence.

XXVI. And be it further enacted, That in case the keeper of any house or place for the reception of lunatics, not being within the said city of *London* or *Westminster* or within seven miles of the same or within the said county of *Middlesex*, shall in the day-time refuse the said justices and physician, on such visitation, admittance at any time or times into such house or place as aforesaid, the master or keeper of such house or place shall for such offence forfeit his licence.

If Keeper do not give Notice of the Receipt of a Lunatic, within 14 Days, he forfeits 100*l.*

XXVII. And be it further enacted by the authority aforesaid, That the keeper of any house or place for the reception of lunatics, not being within the said city of *London* or *Westminster* or within seven miles of the same or within the said county of *Middlesex*, shall and is hereby required to give notice as aforesaid, of the receipt of every such lunatic (except such pauper lunatics as shall happen to be sent there by parish officers) to the secretary to the commissioners at the College of Physicians aforesaid within the space of fourteen days from the time of such luna-

tic's being received into any such house or place; and every keeper of any such licensed house or place who shall admit harbour entertain or confine any person as a lunatic without having an order in writing under the hand and seal of some physician surgeon or apothecary that such person is proper to be received into such house or place as a lunatic, or shall receive any lunatic into any such house or place having such order, and shall not give notice thereof to the secretary of the said commissioners, within the time and in the manner aforesaid, shall forfeit and pay the sum of one hundred pounds.

No Licence to be granted without Recognisance.

XXVIII. And be it further enacted, That no such licence shall be granted as aforesaid, either by the said commissioners or justices of the peace as aforesaid, unless upon granting such licence the person to whom such licence is granted shall enter into recognisance to the King's Majesty his heirs and successors in the sum of one hundred pounds, with two sufficient sureties each in the sum of fifty pounds, or one sufficient surety in the sum of one hundred pounds, under the usual conditions for the good behaviour of such persons during the time for which such licence shall be granted.

Chancellor to order Commissioners, or Justices, to inspect licensed Houses, and to make Report, &c.

XXIX. And be it further enacted by the authority aforesaid, That the Lord High Chancellor of *Great Britain* or Lord Keeper or the Commissioners for the custody of the Great Seal or the Lord Chief Justice of the Court of King's Bench or the Lord Chief Justice of the Court of Common Pleas for the time being may at any time or times by any written order directed to the commissioners appointed by this Act, or to the justices of the peace and physician appointed visitors at any general quarter session, require the said commissioners or any three or more of them or the said visitors or any two of them to visit or inspect any house or houses so licensed; and also to make a report to him or them touching such matters as they shall in such orders be directed to inquire into or as they shall think deserving his or their lordships notice; and the said Lord High Chancellor or Lord Keeper or Commissioners for the custody of the Great Seal or Lord Chief Justice of the Court of King's Bench or the Lord Chief Justice of the Court of Common Pleas may also at any time or times by a like order send for and inspect the register or registers so to be kept as aforesaid; and may summon and examine all or any of the persons concerned in the execution of this Act as often as shall be thought necessary and proper; in case they or any of them shall not obey all such orders as aforesaid within two days after the receipt of the same, and shall not shew sufficient cause to the contrary, every person so offending shall be deemed guilty of a contempt of the Court of Chancery Court of King's Bench or Court of Common Pleas, as the case shall be.

XXX. Provided always and it is hereby declared, That nothing in this Act contained shall extend or be construed to extend to any of the public hospitals within this kingdom.

Proceedings to be justified in course of Common Law.

XXXI. 'And whereas it is not intended by this Act to give the keepers 'of any house or houses so to be licensed as aforesaid, or any other 'person concerned in confining any of his Majesty's subjects therein, 'any new justification from their being able to prove that the persons so 'confined have been sent there by such direction and advice as are re-'quired by this Act;' Be it therefore declared and enacted, That in all proceedings that shall be had under his Majesty's writ of *Habeas Corpus*, and in all indictments informations and actions that shall be preferred and brought against any person or persons for confining or ill treating any of his Majesty's subjects in any of the said houses, the parties complained of shall be obliged to justify their proceedings according to the course of the common law, in the same manner as if this Act had not been made.

Penalties and Forfeitures.

XXXII. And be it further enacted by the authority aforesaid, That all penalties and forfeitures which shall be incurred within the said cities of *London* or *Westminster* or within seven miles of the same or within the said county of *Middlesex* for offences against this Act shall and may be sued for and recovered in any of the courts of record at *Westminster*, by

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action of debt bill plaint or information by the president of the said college for the time being, in the name of the treasurer belonging to the said college at any time within six calendar months after the offence committed; and all such penalties and forfeitures when recovered shall and are hereby directed to be paid to the said treasurer, and shall be applied (except such penalties and forfeitures as are otherwise directed to be applied by this Act) in manner following; (that is to say), one moiety of all such penalties and forfeitures shall go to the informer, and the other moiety towards defraying the expences attending the execution of this Act: and all penalties and forfeitures which shall be incurred for offences against this Act, not within the said cities of *London* or *Westminster* or within seven miles of the same or within the said county of *Middlesex*, shall and may be sued for and recovered by action of debt bill plaint or information by and in the name of the clerk of the peace for the county where any such offence shall be committed; and all such penalties and forfeitures when recovered shall be applied one moiety to the informer and the other moiety for defraying the expences attending the execution of this Act within such county.

Limitation of Actions.

XXXIII. And be it further enacted, That if any action or suit shall be commenced or brought against any person or persons for any thing done in pursuance of this Act the same shall be commenced within six calendar months next after the fact committed; and shall be laid or brought in the county city or place where the cause of action shall have arisen and not elsewhere; and the defendant or defendants in every such action or suit shall and may at his election plead specially or the general issue not guilty; and give this Act and the special matter in evidence at any trial to be had thereupon, and that the same was done in pursuance and by the authority of this Act: and if the same shall appear to be so done, or that such action or suit shall be brought in any other county city or place, or shall not have been commenced within the time before limited for bringing the same, that then the jury shall find a verdict for the defendant or defendants; and upon a verdict being so found, or if the plaintiff or plaintiffs shall be nonsuited, or discontinue his her or their action or suit after the defendant or defendants shall have appeared; or if upon demurrer judgment shall be given against the plaintiff or plaintiffs, then the defendant or defendants shall recover treble costs, and have such remedy for recovering the same as any defendant or defendants hath or have in any other cases by law.

General Issue.

Treble Costs.

Public Act.

XXXIV. And be it further enacted, That this Act shall be deemed and taken to be a public Act; and be judicially taken notice of as such by all judges justices and other persons whomsoever without specially pleading the same.

Continuance of this Act.

XXXV. And be it further enacted by the authority aforesaid, That this Act shall continue in force for the term of five years, and from thence to the end of the then next session of Parliament. [Made perpetual 26 Geo. III. c. 91.]

[No. III.] 39 & 40 Geo. III. c. 94.—An Act for the safe Custody of Insane Persons charged with Offences. [28*th July* 1800.]

39 & 40 George III. c. 94.

'WHEREAS persons charged with high treason murder or felony 'may have been or may be of unsound mind at the time of com- 'mitting the offence wherewith they may have been or shall be charged, 'and by reason of such Insanity may have been or may be found not 'guilty of such offence, and it may be dangerous to permit persons so 'acquitted to go at large:' Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assem-

The Jury, in case of any Person charged with Treason, &c. proving to be insane, shall declare whether he was acquitted by them on account of Insanity, and the Court shall order him to be kept in Custody till his Majesty's Pleasure be known, and his Majesty may give an Order for the safe Custody of such insane Person, &c.

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bled, and by the authority of the same, That in all cases where it shall be given in evidence upon the trial of any person charged with treason murder or felony that such person was insane at the time of the commission of such offence and such person shall be acquitted, the jury shall be required to find specially whether such person was insane at the time of the commission of such offence and to declare whether such person was acquitted by them on account of such insanity; and if they shall find that such person was insane at the time of the committing such offence, the court before whom such trial shall be had shall order such person to be kept in strict custody in such place and in such manner as to the court shall seem fit until his Majesty's pleasure shall be known; and it shall thereupon be lawful for his Majesty to give such order for the safe custody of such person during his pleasure in such place and in such manner as to his Majesty shall seem fit; and in all cases where any person before the passing of this Act has been acquitted of any such offences on the ground of insanity at the time of the commission thereof, and has been detained in custody as a dangerous person by order of the court before whom such person has been tried and still remains in custody, it shall be lawful for his Majesty to give the like order for the safe custody of such person during his pleasure as his Majesty is hereby enabled to give in the cases of persons who shall hereafter be acquitted on the grounds of insanity.

Insane Persons indicted for any Offence, and found to be insane by a Jury to be impannelled on their Arraignment, &c. shall be ordered by the Court to be kept in Custody till his Majesty's Pleasure be known, &c.

II And be it further enacted, That if any person indicted for any offence shall be insane, and shall upon arraignment be found to be by a jury lawfully impannelled for that purpose, so that such person cannot be tried upon such indictment, or if upon the trial of any person so indicted such person shall appear to the jury charged with such indictment to be insane, it shall be lawful for the court before whom any such person shall be brought to be arraigned or tried as aforesaid to direct such finding to be recorded, and thereupon to order such person to be kept in strict custody until his Majesty's pleasure shall be known; and if any person charged with any offence shall be brought before any court to be discharged for want of prosecution, and such person shall appear to be insane, it shall be lawful for such court to order a jury to be impannelled to try the sanity of such person; and if the jury so impannelled shall find such person to be insane, it shall be lawful for such court to order such person to be kept in strict custody in such place and in such manner as to such court shall seem fit until his Majesty's pleasure shall be known; and in all cases of insanity so found, it shall be lawful for his Majesty to give such order for the safe custody of such person so found to be insane, during his pleasure, in such place and in such manner as to his Majesty shall seem fit.

Persons committed by any Justice on account of being dangerous and insane shall not be bailed except by two Justices, (one being the Justice committing,) or by the Quarter Sessions, or one of the Judges.

III. 'And, for the better prevention of crimes being committed by 'persons insane,' Be it further enacted, That if any person shall be discovered and apprehended under circumstances that denote a derangement of mind and a purpose of committing some crime, for which if committed such person would be liable to be indicted, and any of his Majesty's justices of the peace before whom such person may be brought shall think fit to issue a warrant for committing him or her as a dangerous person suspected to be insane, such cause of commitment being plainly expressed in the warrant, the person so committed shall not be bailed except by two justices of the peace, one whereof shall be the justice who has issued such warrant, or by the court of general quarter sessions, or by one of the judges of his Majesty's courts in *Westminster Hall*, or by the lord chancellor, lord keeper, or commissioners of the great seal.

The Privy Council or one of the Secretaries of State may cause Persons appearing to be insane and endeavouring to gain Admittance to his Majesty to be kept in Custody till the Insanity of such Persons be inquired into, and such Persons may be committed and discharged in Manner herein directed, &c.

IV. 'And whereas insane persons have, at different times, endeavoured 'to gain admittance to his Majesty's presence, by intrusion on his Ma-'jesty's palaces and places of residence and otherwise, and his Majesty's 'person may be endangered by reason of the insanity of such persons.'

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Be it therefore enacted, That if any person who shall appear to be insane shall endeavour to gain admittance to his Majesty's presence by intrusion on any of his Majesty's palaces or places of residence or otherwise, so that there may be reason to apprehend that his Majesty's person may be endangered, it shall be lawful for his Majesty's Privy Council or one of his Majesty's Principal Secretaries of State to cause such person to be brought before them or him; and if upon examination it shall appear that there is reason to apprehend such person to be insane and that the person of his Majesty may be endangered by reason of the insanity of such person, it shall be lawful for his Majesty's Privy Council or one of his Majesty's Principal Secretaries of State to order such person to be kept in safe custody in such place and in such manner as according to circumstances shall be ascertained; and for such purpose it shall be lawful for the lord chancellor lord keeper or lords commissioners for the custody of the great seal of *Great Britain* to award a commission under the said great seal, directed to certain commissioners to be therein named, to inquire into the sanity of such person, and whether the person of his Majesty may be endangered by reason of the insanity of such person, and for such purpose to direct the sheriff of the county where such person shall be to summon a jury to try the sanity of such person, and whether his Majesty's person may be endangered by reason of the insanity of such person, in the same manner as juries are summoned to try the sanity of persons on a commission in the nature of a writ *de lunatico inquirendo;* and if upon the inquisition so taken it shall be found that such person is so far insane that the person of his Majesty may be endangered by reason of the insanity of such person, it shall be lawful for the lord chancellor lord keeper or lords commissioners for the custody of the great seal for the time being to take order for the safe custody of such person so long as there shall be reason to apprehend that the person of his Majesty may be endangered by reason of the insanity of such person; and if it shall afterwards appear that such person shall have recovered the use of his or her reason, so that there shall be no longer any reason to apprehend any danger to his Majesty's person from the insanity of such person, it shall be lawful for the lord chancellor lord keeper or lords commissioners for the custody of the great seal for the time being, to inquire into the fact by such means as to him or them shall seem proper; and if it shall appear to his or their satisfaction that such person has so far recovered the use of his or her reason that there is no ground for apprehending any danger to his Majesty's person from the insanity of such person, it shall be lawful for the said lord chancellor lord keeper and lords commissioners respectively to direct such person to be discharged from custody, either absolutely or conditionally, or under restrictions, as to him or them shall seem meet.

[No. IV.] 48 George III. c. 96.—An Act for the better Care and Maintenance of Lunatics, being Paupers or Criminals in *England*.—[23*d June* 1808.]

48 George III. c. 96.

'WHEREAS the practice of confining such lunatics and other insane 'persons as are chargeable to their respective parishes in gaols 'houses of correction poor houses and houses of industry is highly dan-'gerous and inconvenient: And whereas it is expedient that further pro-'vision should be made for the care and maintenance of such persons 'and for the erecting proper houses for their reception, and also for 'erecting additional buildings adjoining or contiguous thereto for the 'reception of other lunatics: And whereas it is also expedient that further 'provision should be made for the custody of insane persons who shall 'commit criminal offences;' Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That it shall and may be lawful for the justices of the peace in and for every county within *England* and *Wales*,

Justices in Sessions may give Notice of their Intent to erect Lunatic Asylums.

at their respective general quarter sessions of the peace or any adjournment of the same or the major part of such justices then and there assembled, to direct notice to be given in some public newspaper or newspapers circulated in or near such county of their intention of taking into consideration, at their next general quarter or general annual sessions, the expediency and propriety of providing a lunatic asylum or house for the reception of lunatics and other insane persons within the said county, or of appointing a committee of magistrates to treat with any one or more of the adjacent counties to unite for that purpose.

Justices of any County may contract; and appoint Visiting Justices for such Asylums.

II. And be it further enacted, That the said justices of the peace after such notice being given as aforesaid shall at their next general quarter or general annual sessions proceed to take the same into consideration; and if it shall appear to the major part of the said justices being then and there assembled, such major part not being less in number than seven, that it is expedient that a lunatic asylum or house for the reception of lunatics and other insane persons should be erected in and for the said county sole, the said justices shall nominate and appoint such number of visiting justices as they may think fit to superintend the building erection and management of such lunatic asylum and from time to time to report the state of their proceedings to the court of the general quarter sessions.

Committee of Justices to unite Counties for such Purpose.

III. And be it further enacted, That in all cases where it shall appear expedient to the justices of the peace in and for any county to unite with any one or more adjacent county or counties for the purposes of this Act, and for the providing a lunatic asylum to serve for the said several counties, it shall and may be lawful for the said justices at their respective general quarter sessions (whereof due notice shall be given as aforesaid) to nominate and appoint any number of justices, not exceeding five, to be a committee for treating with any adjacent county or counties for that purpose.

Agreement to be entered into, when Counties shall be united.

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in proportion to the Population as returned under 41 Geo. 3. (G. B.) c. 15.

IV. And be it further enacted, That where the committees of justices so appointed by any two or more counties shall think fit to unite the said counties for the purposes of this Act, and shall signify their inclination and desire so to do at a meeting holden for that purpose, an agreement shall at such meeting, or as soon as conveniently may be afterwards be entered into by the said justices so appointed as aforesaid, or the major part of them, in the form or to the effect set forth in the schedule hereunto annexed (No. 1.); which agreement when subscribed by the major part of the justices so nominated and appointed for each county shall be binding upon the said counties; and every such agreement shall specify the place at or near which such lunatic asylum shall be situate, and the proportions in which the expences necessary for the carrying into execution the purposes of this Act shall be charged and assessed upon the several counties so uniting, which proportions shall be calculated by the said justices so appointed upon the numbers of the respective population of the said several counties as stated in the returns to an Act, passed in the forty-first year of his Majesty's reign, intituled, "An Act for taking an Account of the Population of *Great Britain*, and of the Increase and Diminution thereof;" and the said agreement shall also specify the number of visiting justices to superintend the building erection and management of the said lunatic asylum to be appointed by each of the respective counties so uniting, which number shall be in proportion to the share of the expences so to be charged and assessed upon each of such respective counties, but so that a number less than three shall in no case be appointed for any county so united.

Such Agreement shall be reported at Quarter Sessions.

V. And be it further enacted, That whensoever such agreement shall have been so entered into and signed as aforesaid the justices so appointed to be a committee for each county so uniting shall respectively report the same to the justices of the peace at their next general quarter sessions to be holden for each of the said counties, and shall then and there deliver into court a duplicate of the said agreement to be by the clerks of the peace of the said counties entered among the records; and that the said justices shall then and there immediately proceed to nominate such number of persons as by the said agreement they may be en-

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titled to appoint to be visiting justices of the said asylum till the next *Michaelmas* general quarter sessions, and shall continue annually to appoint such number of visiting justices at each *Michaelmas* general quarter sessions.

Visiting Justices empowered to contract.

VI. And be it further enacted, That the said visiting justices so nominated and appointed by such county sole or such united counties are hereby authorised and required within two calendar months after such nomination and appointment as aforesaid to meet and assemble at such place as shall appear to them most convenient for that purpose (due notice thereof being previously given to such visiting justices by the clerk or clerks of the peace of such county or counties respectively) and that the said visiting justices may adjourn the said meeting from time to time or from place to place and meet as often as they shall think necessary; and the said visiting justices or the major part of them are hereby authorised at their said meetings to appoint a clerk and a surveyor for duly exercising the powers of this Act, and from time to time to receive plans and estimates and contract for the purchase of lands and buildings or for the alteration of any building already belonging to such county or any of such united counties and for building erecting altering furnishing and completing such lunatic asylum and the yards courts and outlets thereto belonging, and such contract or contracts shall be made and entered into at the most reasonable rates and with the most responsible persons; and every such contractor shall give sufficient security for the due performance of his contract to the clerk to such visiting justices; and all contracts when made and all orders relating thereto shall be entered in a book to be kept by the clerk to such visiting justices, and when such asylum shall be declared to be completed in manner herein-after directed then such books shall be deposited and kept among the records of such county sole or of such of the counties so united for the purposes of this Act as shall have paid the largest quota or proportion of the expences of providing such asylum to be inspected at all reasonable times by any person contributing to the county rates of such county or counties respectively; and all buildings or land so to be contracted for and purchased shall be conveyed to such person or persons as the visiting justices shall think fit in trust for the uses and purposes of this Act; and the said visiting justices shall from time to time make their report to the general quarter sessions of the peace of such county or counties respectively of the several plans estimates and contracts which shall have been made and entered into in manner aforesaid, and also a report of the sum or sums of money necessary to be raised and levied on such county sole as the expence or on each of such united counties as the quota or proportion of the expence to be incurred on the several accounts aforesaid.

Appointment of Clerk and Surveyor.

Contracts.

Report to Sessions.

Expences shall be defrayed, as County Rates, under 12 Geo. 2. c. 20. 13 Geo. 2. c. 18.

VII. 'And in order to defray the expences necessary for the execution 'of this Act,' Be it further enacted, That the justices of the peace at their general quarter sessions may and shall cause such sums of money as shall have been from time to time reported to them to be necessary for that purpose by the visiting justices to be raised in such manner as rates are directed to be raised by two Acts made in the twelfth and thirteenth years of his late Majesty King *George* the Second, for the more easy assessing collecting and levying of county rates, or shall order and direct the same to be paid out of the ordinary rate of such county.

Justices empowered to borrow Money on Mortgage of Rates.

VIII. 'And whereas the expences of carrying this Act into execution 'may in some cases become very burthensome on the occupiers of land 'and other the contributors to the county rates, in case the said expences 'should be raised in the manner herein-before mentioned;' Be it therefore enacted, That when it shall appear on the report of such visiting justices that the charge and costs of carrying this Act into execution will exceed one half of the amount of the ordinary annual assessment for the county rate for any county (such ordinary assessment to be taken on a mean proportion of the said rate for the last five years preceding) that then and in such case it shall and may be lawful for the justices of the peace within the respective limits of their commissions so assembled in their quarter sessions as aforesaid from time to time to borrow and take up on

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mortgage of the rates herein mentioned, by instruments in the form contained in the schedule hereunto annexed (No. 2.) or to that or the like effect, any sums not less than fifty pounds each at legal or lower interest as to them or the major part of them (such major part not being less than five) shall appear necessary and expedient for the purposes aforesaid, and to secure all and every such sum and sums of money so borrowed upon the credit of the rates to be raised upon such county respectively; and the said justices so assembled as aforesaid are hereby authorised to treat and agree with any person or persons for the loan of any such sum or sums of money and by their order to confirm and establish every such agreement as aforesaid; and every such agreement so established by such order and signed by the chairman and two or more justices present at the time of making such order shall be and the same is hereby declared to be effectual for securing to the person or persons so advancing any sum or sums of money his her or their executors administrators and assigns all and every such sum or sums of money with interest for the same on such terms as in and by such agreement or agreements respectively shall be for that purpose stipulated; and the said securities shall be numbered in order of succession in which they shall be granted, and copies or extracts of all such agreements or securities shall be kept with the clerk of the peace or other proper officer having the custody of the records of the quarter sessions of such county respectively; and all and every person and persons to whom any such security or securities shall be made or who shall be entitled to the money thereby secured is and are hereby empowered (by indorsing his her or their name or names on the back of such security or securities) to transfer and assign the same and his her or their right to the principal money and interest thereby secured unto any person or persons; and every such assignee may in like manner transfer the same again and so *toties quoties;* and the person or persons to whom such security or securities or any such assignment thereof shall be made, and his or their respective executors administrators and assigns shall be creditors upon the said rates in an equal degree one with another and shall not have any preference with respect to the priority of any monies so advanced.

Sched. (No. 2.)

For charging the Rate with a Sinking Fund to reduce the Principal borrowed.

IX. And be it further enacted, That the said justices are hereby authorised and required not only to charge the rates to be raised upon such county with the interest of the money so borrowed upon such securities, but also with the payment of a further sum equal at least with the sum so charged for the interest of such securities, which said sums shall be assessed on such county in such manner as county rates are directed to be assessed by the laws now in being and paid and applied under the direction of the said justices in discharge of the interest and of so many of the principal sums on the said securities as such money will extend to discharge in each year, until the whole of the money for which such securities shall be made and the interest thereof shall be fully paid and discharged; and the said justices are required to fix one or more days in each year on which such payment shall be made and shall make orders for assessments in due time so as to provide for the regular payment thereof; and they are hereby required to appoint a proper person to keep an exact and regular account of all the receipts and payments under the authority of this Act in a book or books separate and apart from all other accounts and the same to adjust and settle in such manner that it may easily be seen what interest is growing due and what principal money has been discharged and what remains due, and the said book or books so adjusted and settled to deliver into court at every general annual or *Michaelmas* quarter sessions to be held for any such county; and the said justices are required at every such sessions carefully to inspect all such accounts and make orders for carrying the several purposes of this Act into execution in such manner as to them shall seem meet; and if at any time it shall appear to the said justices that the person so appointed has neglected the said order and has not duly and without delay applied the money in his hands to the purposes hereby directed, such person shall forfeit double the amount of the money which shall not have been applied to the pur-

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poses of this Act, to be recovered by distress and sale of the offender's goods and chattels by warrant under the hands and seals of such justices; and the said penalty after the charges of recovering the same shall be paid to the treasurer of the said asylum to be applied to the use of the same: and the said justices on a day and hour to be fixed at some general quarter or annual sessions of the peace to be holden for such county, (of which fourteen days public notice shall be given as aforesaid) shall in open court cause all the said several securities to be drawn by lot and numbered for payment according to the event of such drawing, and the securities so drawn and numbered shall be regularly discharged in succession according to priority of such drawn number.

Money borrowed shall be repaid within 14 Years.

X. Provided always and be it further enacted, That the justices of the peace in their respective quarter sessions shall and they are hereby required to make provisions by means of the rates (which they are hereby authorised to make) and by their orders and directions (which they are hereby authorised to give) in such manner that the whole money to be borrowed under the authority of this Act shall be fully paid and discharged within a time to be limited not exceeding fourteen years from the time of borrowing the same.

Corporations, Guardians, Trustees, &c. empowered to convey Lands.

XI. And be it further enacted, That it shall and may be lawful for the King's most excellent Majesty his heirs and successors, and for all bodies politic and corporate, and also for all guardians committees husbands trustees and attornies of any person or persons being infants lunatics idiots under coverture or any other disability, and also for all other persons who are or shall be seised possessed of or interested in any houses buildings lands tenements hereditaments easements or privileges which shall be deemed necessary for the purposes of this Act, to contract or agree for and to sell convey and assure such houses buildings lands tenements hereditaments easements and privileges unto such person or persons as shall be named by the visiting justices in trust and for the purpose of erecting or providing such lunatic asylum and the yards courts and outlets thereunto belonging; and all such contracts agreements sales conveyances and assurances shall be valid and effectual in law to all intents and purposes whatsoever; any law statute usage or custom to the contrary notwithstanding.

Application of Purchase Money for Lands in Settlement, &c.

XII. And be it further enacted, That all sums of money which shall be agreed to be paid to any corporation guardian committee husband trustee or attorney for or on behalf of any infants lunatics idiots femes covert or cestuique trusts, or to any other person or persons whose houses buildings lands tenements hereditaments easements and privileges shall be limited in settlement for the purchase of any such lands tenements and hereditaments, shall in case such sums of money shall exceed the sum of one hundred pounds be laid out by such corporations guardians committees husbands trustees or attornies or any person or persons seised of such houses buildings lands tenements hereditaments easements or privileges so limited in settlement as soon as conveniently may be in the purchase of lands tenements and hereditaments in fee-simple, to be conveyed to or to the use of such corporations guardians committees husbands trustees or attornies and to and for such person or persons and for such estate and estates and to for and upon and subject to such uses limitations remainders and contingencies as the houses buildings lands tenements hereditaments easements or privileges for and in respect whereof such purchase money shall be paid as aforesaid shall be limited settled and assured at the time such purchase or contract shall be made in manner aforesaid or such as shall then be capable of taking effect, the charges of such conveyances and settlements to be paid in the same manner as the other expences relating to the lunatic asylum; and in the mean time and till such purchase or purchases shall be made, such money whether the same shall or shall not exceed the sum of one hundred pounds shall be laid out by such corporations or other persons for the time being interested therein in some government securities in the names of two persons, one to be nominated by the party or parties for the time being interested therein and the other by the visiting justices aforesaid; and the interest

arising from such securities shall be paid to such person or persons respectively as would have been entitled to the rents and profits of such lands tenements hereditaments easements and privileges in case the same had not been sold, or would for the time being be entitled to the rents and profits of such lands tenements and hereditaments so to be purchased in case the same were purchased and settled as aforesaid.

Justices shall not be concerned in Contracts.

XIII. Provided always and be it further enacted, That no justice of the peace who shall under the authority of this Act do any matter or thing in the execution hereof shall be capable of having any beneficial interest or concern whatsoever, either in his own name or in the name of any other person in trust for him, in any contract or agreement to be made under the authority of this Act, or shall for any design or plan he may deliver or produce receive any benefit or emolument whatsoever.

Digging for Materials.

XIV. And be it further enacted, That the said visiting justices or any five or more of them shall and may and they are hereby authorised to empower their agents or workmen to dig take and carry away any soil clay sand gravel or stone, and to manufacture the same for the purpose of building carrying on finishing and completing such lunatic asylum or other buildings hereby directed to be built, out of upon or from any common or waste land river or brook without paying any thing for the same; they causing all pits or quarries made by such digging and taking to be filled up or railed and fenced so as not to be dangerous to passengers or cattle.

Justices may sue in the Name of their Clerk.

XV. And be it further enacted, That the said visiting justices may sue and be sued in the name of their clerk, and that no action that may be brought or commenced by or against the said visiting justices or any of them by virtue of this Act, in the name of their clerk, shall abate or be discontinued by the death or removal of such clerk or by the act of such clerk without the consent of the said visiting justices or any five or more of them; but the clerk to the said visiting justices for the time being shall always be deemed plaintiff or defendant in such action as the case shall be.

Regulations for the Situation of Lunatic Asylums.

XVI. And be it further enacted, That the said visiting justices, as well in the choice of ground and of situation as in determining upon the plans for building or for purchasing and altering buildings for such lunatic asylums, shall as far as conveniently may be fix upon an airy and healthy situation with a good supply of water and which may afford a probability of the vicinity of constant medical assistance, and pursue such measures and adopt such plans as shall provide separate and distinct wards for male and female lunatics and also for the convalescents and incurables, and also separate and distinct day rooms and airing grounds for the male and female convalescents and dry and airy cells for the lunatics of every description.

Justices shall by Warrant remove into such Asylum lunatic Paupers, and the Parish chargeable shall pay the Asylum a weekly Allowance for them.

XVII. And be it further enacted, That so soon as any lunatic asylum so erected as aforesaid shall be declared by the visiting justices to be completed and in a fit state for the reception of lunatics and other insane persons, whereof due notice shall be given three times at the least in some publick newspaper or newspapers circulating in the county or district of counties united for the purposes of this Act, the justices of the peace acting respectively in and for any county or counties at the expence of which such asylum shall have been built are hereby authorised and directed to issue warrants upon the application of the overseers of the poor of any parish situate within such county or district of counties for the conveyance of any lunatic insane person or dangerous idiot who may be chargeable to such parish to such asylum, there to be safely kept until he or she shall be duly discharged as hereinafter directed; and at the time of such issuing such warrant every such justice shall also make an order upon the overseers of the poor of the parish to which such lunatic insane person or dangerous idiot shall belong, to pay such weekly sum to the treasurer of such asylum as shall from time to time be fixed upon by the visiting justices as a fit rate for the maintenance medicine clothing and care of such persons.

Penalty on any Overseer neglecting to give Information to Justice of lunatic Paupers, 10*l.* to 40*s.*

XVIII. And be it further enacted, That if any overseer of the poor of

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any parish shall wilfully neglect or delay to give information to such justice of the peace of any such lunatic or insane person who shall be chargeable to such parish, or to make application for such warrant as aforesaid during the space of seven days from the time that he shall be acquainted that such person is so lunatic or insane, he shall for every such offence forfeit and pay a sum of money not exceeding ten pounds nor less than forty shillings, to be recovered by distress and sale of the offender's goods and chattels by warrant under the hands and seals of any two justices of the peace acting for the county within which such parish shall be situated, which warrant such justices are hereby required to grant upon the confession of the party or upon the information of any witness or witnesses upon oath (which oath such justices are hereby empowered to administer); and the said penalty, after the charges of recovering the same shall be deducted, shall be paid one moiety to the informer and the other to the treasurer of the said asylum, to be applied to the use of the same.

17 Geo. 2. c. 5. § 20.

XIX. 'And whereas by an Act passed in the seventeenth year of the 'reign of King *George* the Second, intituled "An Act to amend and 'make more effectual the Laws relating to Rogues, Vagabonds and other 'idle and disorderly Persons, and to Houses of Correction," it is among 'other things enacted, That whereas there are sometimes persons who 'by lunacy or otherwise are furiously mad or are so far disordered in 'their senses that they may be dangerous to be permitted to go abroad, 'it shall and may be lawful for any two or more justices of the peace 'where such lunatic or mad person shall be found, by warrant under 'their hands and seals directed to the constables churchwardens and 'overseers of the poor of the parish town or place or some of them, to 'cause such person so to be apprehended and kept safely locked up in 'some secure place within the county or precinct where such parish 'town or place shall lie, as such justices shall under their hands and 'seals direct and appoint, and if such justices find it necessary, to be 'there chained, if the last legal settlement of such person shall be in 'any parish town or place within such county or precinct; and if such 'settlement shall not be there, then such person shall be sent to the 'place of his or her last legal settlement by a pass *mutatis mutandis* as 'aforesaid, and shall be locked up or chained by warrant of two justices 'of the county or precinct to which such person is so sent in manner 'aforesaid; and the reasonable charges of removing and of keeping 'maintaining and curing such person during such restraint (which shall 'be for and during such time only as such lunacy or madness shall continue) shall be satisfied and paid, such charges being first proved upon 'oath, by order of two or more justices of the peace, directing the 'churchwardens or overseers where any goods chattels lands or tenements of such person shall be to seize and sell so much of the goods 'and chattels or receive so much of the annual rents of the lands and 'tenements as is necessary to pay the same, and to account for what is 'so seized sold or received to the next quarter sessions; but if such person hath not an estate to pay and satisfy the same over and above what 'shall be sufficient to maintain his or her family, then such charges 'shall be satisfied and paid by the parish town or place to which such 'person belongs, by order of two justices directed to the churchwardens 'or overseers for that purpose:' Be it enacted, That in case there shall be a lunatic asylum established under the directions of this Act for the county or district of united counties within which the parish to which any lunatic or mad person apprehended by virtue of the above recited Act belongs shall be situated, then such justices of the peace who shall by virtue of the above recited Act issue any warrant for the confinement of such lunatic or mad person shall in the body of such warrant so issued by them direct and order that such lunatic or mad person shall be confined in such lunatic asylum and not elsewhere; but if no such lunatic asylum shall have been established, then and in such case it shall and may be lawful for such justices if they think fit to order and direct by such warrant that such lunatic or mad person shall be confined in any

Justices committing Lunatics under recited Act shall send them to the Asylum of the County, or to House licensed under 14 Geo. 3. c. 49.

house duly licensed for the reception of lunatics under the authority of an Act passed in the fourteenth year of the reign of his present Majesty, intituled "An Act for regulating Mad-houses," although such house may not be situated within the county where the parish to which such lunatic or mad person belongs shall lie.

Where the legal Settlement of Lunatics cannot be discovered, Justices shall send them to the Lunatic Asylum, &c. *See* § 19.

XX. 'And whereas it sometimes happens that by reason of the lunacy 'and madness of such persons the place of their legal settlement cannot 'be ascertained;' Be it enacted, That in case the place of the last legal settlement of any lunatic or mad person apprehended by virtue of the above recited Act cannot be ascertained, then the justices who shall have caused such person to be apprehended shall by their said warrant direct such person to be confined in the lunatic asylum for the county or district of united counties within which such person shall have been apprehended, if any such asylum shall have been established, and not elsewhere; or if no such asylum shall have been established, in some house duly licensed for the reception of lunatics as aforesaid, or in some other secure place as directed by the said recited Act: and if such person have not an estate to pay and satisfy the reasonable charges of removing and of keeping maintaining and curing such person under the authority of the said recited Act, then such charges shall be satisfied and paid by the treasurer of the county within which such person shall be apprehended out of the county rates, by order of two justices to him directed for that purpose.

Lunatic Asylum shall not be liable to Reception of Lunatics chargeable to any Place not contributing.

XXI. Provided always and be it further enacted, That nothing in this Act contained shall extend or be construed to extend to render any lunatic asylum which may be provided under the authority of this Act for the use of any county or united counties liable to the reception of lunatics or insane persons who may be chargeable to or apprehended in any city town precinct parish township or place situate within the limits of such county or united counties, but claiming exemption and being exempt from contributing to the county rate, unless such city town precinct parish township or place shall have agreed to unite, and shall thereby have contributed to the expence of the same under the powers hereinbefore given in this Act.

Justices may agree to unite with Asylums established by voluntary Contributions.

XXII. 'And whereas in many parts of this kingdom lunatic asylums 'have been built and established, and others may hereafter be built and 'established by voluntary contribution for the reception and care of luna-'tics of all descriptions, contributing to the general charge of mainte-'nance medicines and care by certain weekly payments, according to the 'pecuniary circumstances of the parties respectively or of their immediate 'connexions, the excess of payments of the more affluent being applied 'to relieve and lower the payments of persons in more limited cir-'cumstances: And whereas it is fit and expedient to support and en-'courage such laudable institutions, and it may be of great advantage 'that asylums intended by this Act to be erected for pauper lunatics 'should be united to or connected with such institutions by voluntary 'subscription:' Be it enacted, That at any meeting of the justices of the peace to be held as aforesaid in any county for the purpose of considering and determining on the expediency and propriety of providing a lunatic asylum or house of reception for lunatics or other insane persons, if it shall appear to the major part of the justices so assembled that it would be expedient to unite and join with any lunatic asylum so built and established by voluntary contribution or so intended to be built and established, it shall be lawful for the justices so assembled to appoint a committee (in manner herein-before* directed to be appointed to treat with any adjoining county or counties) to treat with and enter into and subscribe an agreement with a committee of governors directors or subscribers to such voluntary institution, such committee being authorised and appointed by a majority of such subscribers to be called by public advertisement as aforesaid for the express purpose of making such appointment; and all provisions herein-before directed in regard to counties treating and agreeing with each other shall be adhered to and be effectual, so far as the same will apply or as the different circumstances of

* § 3, 4.

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the two cases will admit; and the number of the committee of directors governors or subscribers appointed by the subscribers shall not exceed the number of the committee of justices to be appointed by the justices of the peace on the part of the county; and such committee of subscribers or the major part of them shall be competent to enter into and subscribe any agreement to all intents and purposes as fully and effectually as any committee appointed under this Act on the part of any county uniting to treat with any other county so uniting: Provided always, no agreement so made by any committee of justices shall be valid and have force on the part of the county, until the same shall have been submitted to and approved by the majority of the justices of the peace of the county assembled at the next ensuing general quarter sessions which shall be held after such agreement shall have been entered into.

Penalty on Servants in Asylum suffering Lunatics to go at large without Order of Justices, 10*l.* to 40*s.*

XXIII. And be it further enacted, That all lunatics insane persons or dangerous idiots so committed to such asylum shall be safely kept, and that no such person shall be suffered to quit the said asylum or to be at large until the visiting justices or the greater part of them shall order the discharge of such person and shall signify the same in writing under their hands and seals; and that if any officer servant or assistant in such asylum shall notwithstanding through neglect or connivance permit such person in any case to escape and be at large without such order as aforesaid, he or she shall for every such offence forfeit and pay a sum not exceeding ten pounds nor less than forty shillings, to be recovered by distress and sale of the offender's goods and chattels by warrant under the hands and seals of any two justices of the peace acting for the county within which such asylum shall be situated; which warrant such justices are hereby required to grant upon the confession of the party or upon the information of any witness or witnesses upon oath (which oath such justices are hereby empowered to administer); and the said penalty, after the charges of recovering the same shall be deducted, shall be paid one moiety to the informer and the other moiety to the treasurer of the said asylum, to be applied to the use of the same.

Visiting Justices shall regulate Asylums, appoint Officers, &c. *See* § 2.

XXIV. And be it further enacted, That in all cases where any such lunatic asylum shall have been established under the authority of this Act, the visiting justices appointed as aforesaid to superintend the same or the major part of them, such major part not being fewer than five, shall from time to time make such regulations as to them shall seem expedient for the management and conduct thereof, in which regulations shall be set forth the number and description of officers and servants to be kept, the duties to be required, and what salaries shall respectively be paid to them; and may appoint a treasurer and such other officers and servants, together with such number of assistants as they shall from time to time find necessary in proportion to the number of persons confined in such asylum, and may dismiss any such officer servant or assistant if they see occasion; and shall from time to time fix a certain weekly rate to be paid for each person confined in such asylum which may be sufficient to defray the whole expence of the maintenance and care medicines and clothing requisite for such person and the salaries of the officers and attendants; provided always, that such rate shall in no case exceed fourteen shillings *per* week; and that the said visiting justices shall annually audit the accounts of the treasurer and report the same to the next general quarter sessions of the peace to be holden for the counties at the expence of which such asylum has been established.

Visiting Justices shall direct Repairs of Asylum, &c.

XXV. And be it further enacted, That such visiting justices may from time to time order all such repairs or other expences as may be necessary for such lunatic asylums, and shall direct the same to be paid by an order upon the county treasurer where such asylum shall be established by one county only, or shall apportion the same as afore-mentioned upon each county where such asylum is established for a district of united counties, and shall make an order upon the treasurer of each of the said united counties for the payment of the proportion to be paid by such county, and that such county treasurer shall immediately discharge the same out of any money which may then be in his hands, under the penalty of double

such sum as he shall be directed to pay, to be recovered from him for the benefit of such asylum, by action in any of his Majesty's Courts at *Westminster* by the treasurer of the said asylum.

XXVI. And be it further enacted, That in all future rates taxes and levies to be made for any parish or place in which any land or ground to be purchased for the purposes of this Act shall be situate, such land or ground with any building to be erected thereon shall not be assessed to any such rates taxes or levies at a higher value or more improved rent than the same land or ground was at the time of such purchase; nor shall any building or buildings which under this Act shall be erected on such land be assessed to any house or window tax, any Act or Acts of Parliament to the contrary notwithstanding.

Asylum exempted from Increased Rates, and from Window Tax.

XXVII. 'And whereas by an Act passed in the thirty-ninth and fortieth years of the reign of his present Majesty, and intituled "An Act for the safe Custody of insane Persons charged with Offences," it is enacted, that in certain cases therein specified it shall be lawful for courts of justice to direct insane persons to be kept in strict custody in such place and in such manner as to such courts shall seem fit until his Majesty's pleasure shall be known; and that it shall thereupon be lawful for his Majesty to give such order for the safe custody of such persons during his pleasure in such place and in such manner as to his Majesty shall seem fit: And whereas it is expedient that provision should be made for the due maintenance and care of such persons while they shall be so kept in custody;' Be it enacted, That in all cases where any person shall by virtue of the above last recited Act be kept in such custody as a lunatic or insane person by order of any court or by his Majesty's order subsequent thereto, it shall and may be lawful for any two justices of the peace of the county where such person shall be so kept in custody to inquire into and ascertain by the best legal evidence that can be procured under the circumstances of personal legal disability of such lunatic the place of the last legal settlement and the circumstances of such person; and if it shall not appear that he or she is possessed of sufficient property which can be applied to his or her maintenance, to make order upon such parish where they shall adjudge him or her to be legally settled to pay such weekly sum for his or her maintenance in such place of custody as such court or his Majesty shall appoint as shall from time to time be fixed upon and directed in writing by one of his Majesty's Principal Secretaries of State; and that where such place of settlement cannot be ascertained such allowance shall be paid by the treasurer of the county where such person shall have been apprehended; but if it shall appear that such person is possessed of such sufficient property as aforesaid, then such justices shall order and direct the same to be applied to pay and satisfy the expence of the maintenance of such person in the manner directed in the case of lunatics and mad persons by the above recited Act passed in the seventeenth year of King *George* the Second: Provided always, that the churchwardens and overseers of such parish in which the said justices shall adjudge any lunatic to be legally settled or the major part of them may appeal against such order to the general quarter sessions of the peace to be holden for the county where such order shall be made, in like manner and under like restrictions and regulations as against any order of removal, giving reasonable notice thereof to the clerk of the peace of such county, who shall be respondent in such appeal; which said appeal the justices of the peace assembled at the said general quarter sessions are hereby authorised and empowered to hear and determine in the same manner as other orders of removal are now heard and determined.

39 & 40 Geo. 3. c. 94. § 2.

When insane Persons charged with Murder are kept in Custody under recited Act, Justices shall inquire into their Settlement, and make Order for their Maintenance.

Appeal to Quarter Sessions.

XXVIII. And be it further enacted, That all provisions directions clauses matters and things whatever in this Act contained relating to counties shall extend and be construed to extend to all ridings divisions cities towns liberties and places possessing separate jurisdictions; and if relating to parishes shall extend and be construed to extend to all vills townships and places maintaining their own poor as fully and amply as if they were severally and respectively repeated in every such provision direction and clause and with relation to any such matter or thing.

Provisions as to Counties extended to Ridings, &c.

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48 Geo. III. c. 96.

Schedule No. 1.

Form of Agreement for uniting the Counties or Ridings, &c. [*as the Case may be*] of A. B. and C.; for the Purpose of providing a Lunatic Asylum or House for the Reception of Lunatics and Insane Persons, pursuant to the Statute of the Forty-eighth Year of King *George* the Third.

IT is agreed this day of by and between the Committes of Justices of the Peace severally appointed for the counties [*or*, ridings, cities, &c. *as the case may be*] of *A. B C.* to treat for the uniting of the said counties for the purposes of an Act (for the better care and maintenance of paupers and criminal lunatics) passed in the forty-eighth year of his Majesty King *George* the Third, that the said counties [&c. *as the case may be*] shall from henceforth be united for the purposes of the said Act, and adopt in all respects the provisions rules orders and regulations and comply with all the requisites prescribed by the said Act for counties uniting for those purposes; and that a lunatic asylum or house for the reception of lunatics and other insane persons with all necessary buildings courts yards and outlets shall be immediately provided at or near and properly fitted up and accommodated for the purposes mentioned in the said Act; and that the necessary expences attending upon the providing building fitting up repairs and maintenance of the said lunatic asylum shall be defrayed by the said counties so united in the following proportions; (that is to say),

The county of *A.* four-ninths of the said expences.

The county of *B.* three-ninths of the same.

The county of *C.* two-ninths of the same [or, *as the case may be.*]

And we do further agree, That the Committee of Visiting Justices to superintend the building erection and management of the said lunatic asylum shall consist of eighteen [or, *as the case may be*]; whereof the justices of the peace for the said county of *A.* shall appoint eight, the justices of the peace for the county of *B.* shall appoint six, and the justices of the peace for the county of *C.* shall appoint four: And hereunto we the undersigned justices of the peace, being the major part of each of the said committées of justices for the said several counties, do on the part and behalf of the said counties set our hands and seals, this day of in the year

Schedule No. 2.

Form of Mortgage and Charge upon the County Rates for securing the Money borrowed.

WE *A. B.* one of his Majesty's Justices of the Peace and Chairman of the Court of Quarter Sessions of the Peace for the county, &c. of [*as the case shall be*] holden at the day of *C. D.* and *E. F.* Esquires, two other of his Majesty's Justices of the Peace acting for the said county, &c. and assembled in the said court, in pursuance of the powers to us given by an Act passed in the forty-eighth year of the reign of his Majesty King *George* the Third, intituled [&c. *here insert the title of the Act*] Do hereby in open court mortgage and charge all the rates to be raised within the said county, [&c. *as the case shall be*] under the description of county rates, by the laws now in being, with the payment of the sum of which *G. H.* of hath proposed and agreed to lend and hath now actually advanced and paid towards defraying the expences of purchasing lands for building, repairing, &c. [*as the case shall be*] the lunatic asylum for the said county, [&c. or, the united counties of, &c. *as the case may be*] And we do hereby confirm and establish the same unto the said *G. H.* his executors administrators and assigns for securing the repayment of the said sum of and interest for the same after the rate of per centum per annum,

and do order the treasurer for such county, &c. or other person [*as the case shall be*] to pay the interest of the said sum of half yearly as the same shall become due, until the principal shall be discharged pursuant to the directions of the said Act.

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48 Geo. III. c. 96.

[No. IV. *a.*] 51 Geo. III. c. 79.—An Act to amend an Act of the Forty-eighth Year of his present Majesty for the better Care and Maintenance of Lunatics, being Paupers or Criminals, in *England*.—[15*th June* 1811.]

51 George III. c. 79.
48 Geo. 3. c. 96.

WHEREAS by an Act passed in the forty-eighth year of his present Majesty's reign, intituled *An Act for the better Care and Maintenance of Lunatics being Paupers or Criminals in* England, provision is made for the erection of asylums for lunatics and insane persons being paupers or criminals in counties or districts of counties in *England*: And whereas it is therein among other things enacted, that so soon as any lunatic asylum so erected as aforesaid shall be declared by the visiting justices to be completed and in a fit state for the reception of lunatics and other insane persons, the justices of the peace acting respectively in and for any county or counties, at the expence of which such asylum shall have been built, are authorised and directed to issue warrants upon the application of the overseers of the poor of any parish situate within such county or counties for the conveyance of any lunatic insane person or dangerous idiot who may be chargeable to such parish to such asylum, there to be safely kept until he or she shall be duly disharged: And whereas it is also therein enacted, that if any overseer of the poor of any parish shall wilfully neglect or delay to give information to such justice of any such lunatic or insane person who shall be chargeable to such parish or to make application for such warrant as aforesaid during the space of seven days from the time that he shall be acquainted that such person is so lunatic or insane he shall be liable to a penalty therein specified: And whereas it is expedient that the justices of the peace to whom such applications shall be made should have a discretionary power as to issuing or not issuing such warrants in certain cases and under certain restrictions and particularly in cases where it shall be found that the number of applications on the behalf of persons having just claims to be admitted does at any time exceed the number of those who can be properly accommodated in such asylum with a view to cure comfort and safe custody: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That whenever any application shall be made by the overseers of the poor of any parish in any county or district of counties, at the expence of which any lunatic asylum shall have been erected, to any justice of the peace acting in and for such county or counties to issue his warrant for the conveyance of any lunatic or insane person to such asylum, it shall and may be lawful for such justice to refuse to issue the warrant so required if he shall so think fit, such lunatic or insane person not being actually dangerous: Provided nevertheless, that any justice so refusing to issue such warrant as aforesaid shall at the time of his so refusing deliver in writing to the overseers of the poor making such application as aforesaid the reasons for such refusal.

Whenever Application shall be made by Overseers of any Parish of any County in which any Lunatic Asylum is erected, for a Warrant for the Conveyance of any Lunatic, the Justice may refuse it, stating his Reasons.

II. Provided also, and be it enacted, That if any person or persons shall think themselves aggrieved by such refusal of any justice as aforesaid, such person or persons may appeal to the justices of the peace at the next general or quarter sessions of the peace to be holden in and for the county or place where the matter of appeal shall have arisen, the person or persons so appealing having given to the person against whom such appeal shall be made ten days' notice of his her or their intention to make such appeal; and the said justices at such sessions are hereby authorized and required to hear and determine the matter of such appeal in a summary way and to make such determination as they shall think proper;

Persons aggrieved may appeal to the Quarter Sessions.

No. IV. *a.*
51 Geo. III. c. 79.

and every such determination shall be final and conclusive to all intents and purposes whatsoever.

Justices to make Returns to the Quarter Sessions of the Cases brought before them.

III. Provided also, and be it enacted, That every justice who shall have issued a warrant or warrants for the conveyance of any lunatic or insane person to such asylum, or who shall have refused to issue such warrant or warrants on the application of the overseers of the poor of any parish, shall make regular returns to the next general quarter sessions of the peace to be holden in and for the county in which such parish shall be situate of all cases brought before him in which he shall have granted or refused to grant a warrant or warrants for such conveyance, stating in all cases of refusal the reasons for such refusal; and such returns shall be regularly filed and kept among the records of such court of general quarter sessions.

Overseers to produce Certificate of a Medical Person of the State of the Lunatic.

IV. And be it further enacted, That the overseers of the poor of any parish, on making their application to any justice of the peace for the conveyance of any lunatic or insane person or dangerous idiot as aforesaid, shall produce to such justice a certificate in writing from some medical person of the state and degree of lunacy of the person on whose behalf such application shall be made; and that it shall be further lawful for such justice to cause such lunatic insane person or dangerous idiot to be visited by such medical person as he shall think fit, and to examine the said medical person upon oath as to the state and degree of lunacy of such lunatic insane person or dangerous idiot, and to order such sum to be paid to such medical person for his attendance as may seem just and reasonable, and such sum shall be paid by the overseers of the poor of the parish making such application, out of the money raised therein for the relief of the poor.

Medical Superintendent of Asylum to make Returns of the State of Persons intrusted to his Care.

V. And be it further enacted, That the medical superintendent of every such asylum as aforesaid shall make regular returns to the justices of the peace assembled at their general or quarter sessions at least once in every year of the state and condition of all persons committed to his care under the authority of the aforesaid Act passed in the forty-eighth year of his present Majesty's reign and of this Act, in order that the said justices may be enabled from the inspection of such returns and from the report of such medical superintendent to direct the discharge of any persons from such asylum who may appear from such returns and report to be no longer fit objects to remain therein; and that the said justices may at the same time issue their warrants (which they are hereby authorized to issue (for the admission of such other persons at their discretion as may appear to be the fittest objects for immediate reception therein out of the several persons on whose behalf application may have been made to any justice of the peace as aforesaid, and whose cases may have been regularly reported to the said general or quarter sessions.

The Expence of Removal of a Pauper shall be paid by the Parish in which the Pauper shall be legally settled.

VI. And be it further enacted, That on the regular discharge of any pauper from any such asylum the necessary expences attending the removal of such pauper shall be borne by the parish in which such pauper shall be legally settled, and such expences being allowed by two justices of the peace acting in and for the county in which such parish shall be situated shall be paid by the overseers of the poor of such parish out of the money raised therein for the relief of the poor.

Bastards of Lunatics to have the legal Settlement of the Mother.

VII. And be it further enacted, That no bastard child which shall be born of any lunatic insane person or dangerous idiot in any such asylum shall thereby gain a settlement in the parish in which such asylum shall be situated; but that the place of the legal settlement of any such child so born as aforesaid shall be in the parish where the mother of such child was last legally settled.

[No. V.] 55 George III. c. 46.—An Act to amend an Act passed in the Forty-eighth Year of the Reign of his present Majesty, intituled "An Act for the better Care

and Maintenance of Lunatics, being Paupers or Criminals, in *England*."—[2*d May* 1815.]

No. V.
55 Geo. III. c. 46.

55 George III. c. 46.

WHEREAS an Act was made in the forty-eighth year of the reign of his present Majesty, intituled "An Act for the better Care and Maintenance of Lunatics, being Paupers or Criminals, in *England*:" And whereas it is expedient that the said Act should be amended; Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That in every case in which it shall have been or may hereafter be determined that a lunatic asylum shall be erected under the provisions of the said recited Act, it shall be lawful for the justices of the peace acting in and for the county or united counties, at whose expence such lunatic asylum shall have been or shall be erected, annually at the *Michaelmas* general quarter sessions of the peace to be held for such county or counties respectively, or in counties where annual general sessions have been fixed by law, at such annual general sessions to elect the members of the committee of visiting justices for the building erection and management of such asylum; and that it shall be lawful for the justices of the peace acting in and for such county or counties or the major part of them, such major part not being less than seven, assembled at any annual general or quarter sessions of the peace to be held for such county or counties respectively, or any adjournment thereof, to fill up any vacancy in the number of visiting justices so appointed as aforesaid that may have occurred by the death or resignation of any such visiting justice.

Committee of Visiting Justices of Lunatic Asylums to be elected annually.

Vacancies to be filled up.

II. And be it further enacted, That if the justices assembled at the *Michaelmas* general quarter sessions of the peace or annual general session in any year shall omit or neglect to make such election as aforesaid, or if the justices assembled at any annual general or quarter sessions or any adjournment thereof shall neglect or omit to fill up any vacancy that may have occurred as aforesaid, the committee of visiting justices before appointed or such of them as shall continue to act shall be deemed and taken to be the legal committee of visiting justices for the building erection and management of such asylum, until the next *Michaelmas* general quarter sessions of the peace or annual general session.

In case such Election be neglected the Visiting Justices continuing to act deemed the Committee.

III. And be it further enacted, That the subscribers to any lunatic asylum erected or to be erected by voluntary contributions, who may have united or who may hereafter unite with any county or counties under the provisions of the said recited Act, or the majority of such subscribers present at a general meeting to be held in the month of *October* in every year, of which due notice shall be given by public advertisement in some newspaper circulated within the county in which such lunatic asylum shall be situate, shall annually elect their committee of governors directors or subscribers for the purpose of acting with the committee of visiting justices appointed or to be appointed on behalf of such county or counties for the building erection and management of such asylum in the manner prescribed by the said recited Act; and that it shall be lawful for the subscribers to any such asylum erected or to be erected by voluntary contributions as aforesaid, or the major part of them present at any general meeting to be called for that purpose, of which due notice shall be given as aforesaid, to fill up any vacancy in the number of such committee of governors directors or subscribers as aforesaid that may have occurred by the death or resignation of any member of such committee.

Subscribers to Lunatic Asylums who may unite with any County or Counties annually may elect a Committee of Governors to act with Committee of Visiting Justices.

IV. And be it further enacted, That if no such annual meeting as aforesaid shall take place or the subscribers assembled at such meeting shall fail to make such election as aforesaid, then the governors directors or subscribers before appointed to act with the committee of visiting justices appointed or to be appointed by such county or counties for the building erection and management of such asylum, or such of them as shall continue to act, shall be deemed and taken to be a legal committee for the purpose of acting with such committee of justices as aforesaid until the next general annual meeting of subscribers to such lunatic asylum.

In case of neglect to make Election, the Governors continuing to act shall be deemed the Committee.

No. V.

55 Geo. III. c. 46.

Clerk may convene new Meetings.

V. And be it further enacted, That if any committee of visiting justices or of visiting justices united with any committee of governors or directors of or subscribers to any lunatic asylum erected or to be erected by voluntary contributions shall neglect to adjourn any meeting held for the purposes of the said recited Act, or where any unforeseen circumstance shall occur rendering the meeting of such committee necessary within the period to which their meeting may have been adjourned, it shall be lawful for the clerk to such committee to convene a new meeting by a circular letter to each member of such committee, informing him of the time and place of such meeting ten days at least before the same shall be held.

Justices to fix Sums to be expended in purchase of Lands, Houses, &c. or in erecting Buildings.

VI. And be it further enacted, That in every case in which a lunatic asylum shall have been or shall hereafter be erected by any county under the provisions of the said recited Act, it shall be lawful for the justices of the peace of such county, or the major part of them (such major part not being less than seven) assembled at any annual general or quarter sessions of the peace or any adjournment thereof to be held for such county, from time to time to fix and limit the sums which may be expended on the purchase of lands or houses or in the erection of new buildings or in the extension or alteration of existing buildings for the purpose of such lunatic asylum, or the yards outlets or courts thereunto belonging, as well on the first establishment of such lunatic asylum as at any time during its continuance; and it shall not be lawful for the committee of visiting justices appointed for the building erection and management of such asylum to enter into any contract or contracts for the purchase of lands or houses or for the erection of new buildings or for the extension or alteration of existing buildings for the purpose of such lunatic asylum, or the yards outlets and courts thereunto belonging at a sum or sums which may in the whole exceed the sums so from time to time limited and appointed by the justices assembled in sessions as aforesaid; and no contract so entered into by such visiting justices shall be held to be valid or legal.

Weekly Rate for Paupers may be increased by Justices.

VII. And whereas it is in the said recited Act enacted, That the weekly rate to be fixed by the committee of visiting justices to be paid for each pauper confined in any lunatic asylum shall in no case exceed fourteen shillings *per* week: And whereas it may be necessary that such weekly rate should in certain cases be increased; Be it further enacted, That it shall be lawful for the justices of the peace acting in and for any county at whose expence any lunatic asylum shall have been or shall be hereafter erected or the major part of them assembled at any annual general or quarter sessions of the peace to be held for such county or any adjournment thereof (such major part not being less than seven) to make such addition to such weekly rate as to them shall seem fit and necessary, and to make an order accordingly; which order shall be signed by the clerk of the peace or his deputy on behalf of the court, and forthwith published in some newspaper circulated within the county; and such additional rate shall be paid by the overseers of the poor of the parishes townships or places to which the lunatics in such asylum respectively belong, in the same manner as is provided by the said recited Act with regard to the weekly rate from time to time to be fixed on by the visiting justices for the maintenance medicine clothing and care of such lunatics.

Overseers of Poor to return Lists of all Lunatics and Idiots within their respective Parishes, verified on Oath, and accompanied with Certificate from a Medical Practitioner.

VIII. And be it further enacted, That it shall be lawful for the justices of the peace acting in and for any county at their several petty sessions to issue their warrants to the overseers of the poor of the parishes townships and places within their several subdivisions to return true lists of all lunatics and dangerous idiots being paupers within their respective parishes, specifying the name sex and age of each lunatic and idiot, and whether such lunatic be dangerous or otherwise; and for what length of time such lunatics shall have been disordered in their senses; and the overseers of the parishes aforesaid shall on the receipt of such warrants forthwith prepare and return such lists accordingly; and such lists shall be verified on oath before the justices of the peace at their petty sessions as aforesaid and accompanied with a certificate from a medical prac-

No. V.
55 Geo. III. c. 46.

titioner as to the state and condition of each lunatic or dangerous idiot; and any overseer of the poor to whom any such warrant shall have been directed and delivered who shall refuse or neglect to prepare such list or to return the same at the time and place by such warrant fixed, with such certificate as aforesaid or to verify such list on oath, shall for every such offence be subject to such fine as overseers of the poor and other parish and peace officers are subject for neglect of duty under an Act passed in the thirty-third year of his present Majesty's reign, intituled "An Act to authorise Justices of the Peace to impose Fines on Constables, Overseers and other Peace or Parish Officers for Neglect of Duty, and on Masters of Apprentices for Ill Usage of such their Apprentices; and also to make Provision for the Execution of Warrants of Distress granted by Magistrates;" and such fines shall be imposed levied and enforced in the manner in the said Act directed; and the justices aforesaid shall cause the said lists to be forthwith transmitted to the clerk of the peace or his deputy, to be by him laid before the justices of the peace acting in and for such county at their next general quarter sessions of the peace or general annual session: and it shall be lawful for such overseers of the poor to defray the necessary expences of the examination of such lunatics or dangerous idiots by a medical practitioner out of the poor rates of the parishes to which such lunatics or idiots respectively belong; or where the legal settlement of any such lunatic or idiot shall not have been ascertained, then out of the poor rates of the parish in which such lunatic or idiot shall reside.

Lists to be laid before General Quarter Sessions.

Expences of Examination of Lunatics, &c. to be paid by Parishes.

IX. And whereas it may happen that lunatics by the provisions of the laws now in force may be unnecessarily detained in any lunatic asylum after their recovery during the intervals of meetings of the committee of visiting justices or by reason of the non-attendance of a sufficient number of visiting justices at any meeting of such committee; Be it further enacted, That it shall be lawful for any two visiting justices at any time, by and with the advice and consent of the medical superintendent of such asylum, to discharge from such asylum any lunatic confined therein whose perfect recovery may be certified by the said medical superintendent.

Visiting Justices may discharge Lunatics.

X. And whereas it is enacted by the said recited Act of the forty-eighth year of his present Majesty's reign, That where any two or more counties shall think fit to unite the proportion of the expences necessary for carrying into execution the purposes of the said Act, to be charged and assessed upon the several counties so uniting, shall be calculated upon the numbers of the respective population of the said several counties as stated in the returns made in pursuance of an Act passed in the forty-first year of his Majesty's reign, intituled "An Act for taking an Account of the Population of *Great Britain* and of the Increase and Diminution thereof;" Be it hereby further enacted, That in all cases of the union of any two or more counties or of the union of any place or places of distinct jurisdiction with any such county or counties, the proportion of the expences necessary for carrying into execution the purposes of the said recited Act or of an Act passed in the fifty-first year of the reign of his present Majesty, intituled "An Act to amend an Act of the Forty-eighth Year of his present Majesty for the better Care and Maintenance of Lunatics being Paupers or Criminals in *England*," or of this Act, shall be calculated upon the numbers of the respective population of the said several counties and places as shall have been stated in the last returns of the said population which shall have been made under the authority of Parliament previous to the union of such counties.

Returns to be taken on the last Returns of Population.

41 Geo. 3. Sess. 1. c. 15.

51 Geo. 3. c. 79.

XI. Provided always and be it further enacted, That the number of visitors to be appointed by any such place of distinct jurisdiction so uniting with any county or counties shall bear the same proportion to the number of visiting justices appointed by such county or counties as the population of such place shall bear to the population of such county or counties, and shall in no case exceed such proportion.

Limiting the Number of Visitors.

XII. Provided always and be it further enacted, That whenever and so often as it shall appear to the justices of the peace acting in and for

When any Asylum can

No. V.
55 Geo. III. 46.

accommodate more Lunatics, Magistrates may order an Addition under certain Regulations.

any county or counties at whose expence any lunatic asylum shall have been erected or the major part of them, such major part not being less than seven, assembled at any general quarter sessions of the peace or general annual sessions, that the space within such asylum is more than sufficient for the accommodation of lunatics, being paupers, within the district or districts for which such asylum shall have been built, it shall and may be lawful for such justices so assembled to make order for the admission of so many lunatic patients as to them shall seem expedient, not being pauper or criminal, or being paupers but belonging to any other county or to any parish township or place within the county or counties by which such asylum shall have been erected, which may be exempt from contributing to the county rate of such county or counties, and which shall not have united with such county or counties or contributed to the expence of such erection, under the conditions and regulations following, that is to say, That no such lunatic patient shall be admitted into such asylum without an order signed by one visiting justice, directed to the governor or superintendent of such lunatic asylum, nor without the certificate in writing of a regular practitioner in medicine certifying the lunacy of such patient, nor without an undertaking signed by two substantial householders or the minister and one of the churchwardens or one of the overseers of the poor of the parish or place within which such lunatic shall be resident at the period of application made for the admission of such patient into such asylum, for the due payment of the weekly allowance and other expences contingent upon the maintenance and care of such lunatic during the time of his or her continuance in such asylum, as well as for the removal of such lunatic from such asylum within three days after due notice given in writing by the governor or superintendent of such asylum, by the order of one or more visiting justice of such asylum, under the penalty of fifty pounds, to be recovered and applied as other penalties are directed to be recovered and applied by virtue of this or any other Acts of Parliament passed for the building and maintaining of asylums for the reception of pauper lunatics: Provided always, that the weekly provision for the maintenance of such patients, not being paupers, shall be fixed by the visiting justices at such rate as shall in their judgment be sufficient to cover every expence liable to be incurred for or on account of each such patient respectively; and that in no case such weekly provision shall be fixed at a sum less than a sum exceeding by one-third the weekly sum paid at such time by the parishes within such district or districts for the maintenance of the patients thereto belonging respectively, together with such extra charge for clothing and medicine as may be incurred during the continuance of such patient in such asylum under the sanction of the visiting justices thereof.

[No. VI.] 56 Geo. III. c. 117.—An Act to amend an Act passed in the Thirty-ninth and Fortieth Year of the Reign of his present Majesty, for the safe Custody of Insane Persons charged with Offences.—[1*st July* 1816.]

56 George III. c. 117.
39 & 40 Geo. 3. c. 94.

WHEREAS by an Act passed in the thirty-ninth and fortieth years of the reign of his present Majesty, intituled *An Act for the safe Custody of Insane Persons charged with Offences*, it is enacted, that in certain cases therein specified it shall be lawful for courts of justice to direct insane persons to be kept in safe custody in such place and in such manner as to such court shall seem fit, until his Majesty's pleasure shall be known; and that it shall thereupon be lawful for his Majesty to give such order for the safe custody of such persons during his pleasure in such place and in such manner as to his Majesty shall seem fit: And whereas it is expedient that provision should be made for the due care of persons who may after conviction for any criminal offence become insane; Be it therefore enacted by the King's most excellent Majesty, by and with

the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That if any person having been duly convicted of any offence, who after such conviction and during his or her imprisonment or continuance in any gaol prison hulk penitentiary house or house of correction, under sentence of transportation or imprisonment, shall become insane, and it shall be duly certified by two physicians or surgeons that such person is insane, it shall be lawful for one of his Majesty's principal secretaries of state to direct by warrant under his hand that such person as aforesaid shall be removed to such lunatic asylum or other proper receptacle for insane persons in the united kingdom as his Majesty's said principal secretary of state may judge proper and appoint; and every such person so removed as aforesaid shall remain under confinement in such lunatic asylum or other proper receptacle as aforesaid, or in any other lunatic asylum or other proper receptacle to which such person may be removed by any like order, until it shall be duly certified to his Majesty's said principal secretary of state by two physicians or surgeons that such person has become of sound mind; whereupon his Majesty's said secretary of state is hereby authorised, if such person shall still remain subject to imprisonment or to be continued in custody, to issue his warrant to the keeper or other person having the care of any such lunatic asylum or other proper receptacle as aforesaid, directing that such person shall be removed back from such lunatic asylum or other proper receptacle to the gaol prison hulk penitentiary house or house of correction from whence the said person or persons shall have been taken for the purposes of being confined in such lunatic asylum or other proper receptacle as aforesaid during the time of their being insane; or if the period of imprisonment or custody of such person had expired, that such person shall be discharged.

No. VI. 56 Geo. III. c. 117.

Offenders becoming Insane during Confinement, may be removed to any Lunatic Asylum.

[No. VII.] 59 Geo. III. c. 127.—An Act for making Provision for the better Care of Pauper Lunatics in *England*.—[12*th July* 1819.]

WHEREAS it is expedient that further provision should be made for the care of pauper lunatics in *England* who may be chargeable to any parish; Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That upon its being made known to two or more justices of the peace of any county that a poor person chargeable to any parish or place within any of the said counties is deemed or taken to be lunatic or insane or a mischievous idiot, it shall be lawful for the said justices by an order under their hands and seals if they shall so think fit to require the overseers of the poor of the said parish or place to bring the said poor person before them or some other justices of the peace of the said county, at such time and place as shall be appointed by the said order; and the said two justices are hereby authorised to call to their assistance a medical person at the charge of the said parish or place; and if upon view and examination of the said poor person or from other proof the said justices shall be satisfied that such poor person is lunatic insane or a mischievous idiot, it shall be lawful for the said two justices by an order under their hands and seals directed to the said overseers of the poor, according to the form in the schedule (A.) annexed to this Act, to cause the said poor person to be conveyed to and placed in some lunatic asylum, in all cases where such asylum shall have been established under the directions of an Act passed in the forty-eighth year of his present Majesty, intituled *An Act for the better Care and Maintenance of Lunatics being Paupers or Criminals in* England, for the county or district of united counties within which the parish or place to which such poor person belongs shall be situated; but if no such lunatic

59 George III. c. 127.

In Cases where insane Persons are chargeable to the Parish, the Justices shall direct the Overseers to convey them to some licensed House for Lunatics.

48 Geo. 3. c. 96.

No. VII.
59 Geo. III. c. 127.

asylum shall have been established, such justices shall then direct such poor person to be conveyed to and placed in some house duly licensed for the reception of insane persons; and it shall be lawful for the said two justices or for any other two justices of the peace acting in the division of the said county wherein the said parish or place is situated, from time to time as occasion may require to make order on the overseers of such parish or place for the payment of all reasonable charges of conveying such poor person to such lunatic asylum or licensed house, and if such poor person shall be conveyed to a lunatic asylum for the payment of such weekly sum to the treasurer of such asylum as shall be from time to time fixed upon by the visiting justices of such asylum under the authority of the said recited Act, or if such poor person shall be conveyed to such licensed house for the payment of such weekly or monthly sum to the keeper of such licensed house for the maintenance medicine clothing and care of such poor person as such keeper shall be willing to accept, and as shall appear to the said justices to be a reasonable charge in that behalf; and the said overseers of the poor shall not remove such poor person from the said house without an order for that purpose made by two justices of the peace for the county after due inquiry into the circumstances of the case, unless such person shall have been discharged as cured: Provided always, that the overseer or overseers of such parish or place so conveying such insane person to such asylum or licensed house as aforesaid, shall and is hereby required to deliver a certificate from the medical person so called to the assistance of the justices as aforesaid (which certificate such medical person is hereby required to give according to the form in schedule (B.) annexed to this Act to the keeper of such asylum or licensed house).

Public Act.

II. And be it further enacted, That this Act shall be deemed and taken to be a public Act, and shall be judicially taken notice of as such by all judges justices and other persons whomsoever, without specially pleading the same.

Penalty on Overseers of the Poor neglecting to give Information to a Justice as to the State of the Lunatic.

III. And be it further enacted, That if any overseer of the poor of any parish or place to which any lunatic or insane person shall be chargeable, shall for the space of seven days wilfully neglect or delay to give information of the state of such person to some justice of the peace acting within the division of the county within which the said parish or place is situate, he shall for every such offence forfeit and pay a sum of money not exceeding ten pounds nor less than forty shillings (half to the informer and half to the poor of the said parish or place), to be recovered by distress and sale of the offender's goods and chattels, by warrant under the hands and seals of any two justices of the peace for the county within which such parish or place is situate.

Schedule (A.)

FORM OF WARRANT.

WHEREAS it appears to us, two of his Majesty's Justices of the Peace for the county of having called to our assistance *A. B.* a medical person, that *C. D.* chargeable to the parish of *I.* in the said county is [lunatic insane *or* a dangerous idiot, *as the case may be*] you are hereby directed to cause the said *C. D.* to be conveyed to the lunatic asylum at *E.* established under an Act passed in the forty-eighth year of *George* the Third, intituled *An Act for the better Care and Maintenance of Lunatics, being Paupers or Criminals in* England, in order that proper means may be there used for the cure of the said *C. D.*; and you are hereby ordered to pay to the treasurer of the said asylum such weekly sum for the maintenance and care of the said *C. D.* as shall be from time to time fixed upon by the visiting justices of the said asylum under the authority of the said Act; or to the house of *E. F.* situate at *G.* in the county of *K.*; the said house being a house duly licensed for the reception of lunatics; and you are hereby ordered to pay to the said *E. F.* the [weekly *or* monthly] sum of for the maintenance

medicine clothing and care of the said *C. D.*, which sum the said *E. F.* is willing to accept, and which appears to us to be a reasonable charge in that behalf.

No. VII. 59 Geo. III. c. 127.

Given under our hands and seals, this day of

L. M.
N. O.

To the Overseers of the Poor
of the parish of *I.*

Schedule (B.)

FORM OF CERTIFICATE.

I Do hereby certify, That by the directions of *L. M.* and *N. O.* Esquires, Justices of the Peace for the county of *H.*, I have personally examined *C. D.* and that the said *C. D.* appears to me to be of insane mind.

Dated this Day of

A. B. (Physician, Surgeon, *or* Apothecary, *as the case may be*) resident at *R.*

[No. VIII.] 1 Geo. IV. c. 98.—An Act to amend an Act passed in the Fifty-seventh Year of his late Majesty for the Establishment of Asylums for the Lunatic Poor in *Ireland*.—[24*th July* 1820.]

END OF VOL. VII.

B. Bensley, Bolt-court, Fleet-street.

ADDENDA

TO

PART VI. CLASS I.

Alehouses.

[No. I.] 3 Geo. IV. c. 77.—An Act for amending the Laws for regulating the Manner of licensing Alehouses in that Part of the United Kingdom called *England*, and for the more effectually preventing Disorders therein.—[26*th July* 1822.]

3 Geo. IV. c. 77.

Requiring Persons to whom any Licence shall be granted to enter into Recognizances in the Form prescribed by Schedule (A.)

WHEREAS the several statutes now in force for regulating the manner of licensing persons to keep alehouses, or to sell ale, beer, and other liquors by retail therein, in that part of the United Kingdom called *England*, are found to be defective and insufficient, and it is expedient that the laws concerning such alehouses, inns, and victualling houses, and the licensing thereof, should be amended, and some further provisions made as to the mode of granting such licences: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act, every person to whom the justices of the peace or magistrates shall grant a licence or authority to keep a common inn alehouse or victualling house or to sell ale beer cyder perry or other exciseable liquors by retail within that part of the United Kingdom called *England*, shall upon such licence or authority being granted or issued enter into a recognizance to the King's Majesty his heirs and successors in the sum of thirty pounds, with one sufficient surety in the sum of of twenty pounds, or two sufficient sureties in the sum of ten pounds each, which recognizance with the condition thereof shall be in the form prescribed by the Schedule to this Act marked (A.); and in case the person applying for such licence shall be hindered through sickness or infirmity or any other reasonable cause to attend in person at the meeting of the same justices or magistrates for granting the said licences or authorities, that then it shall be lawful for them to grant such licence or authority upon two sufficient sureties entering into such recognizance, each surety in the penalty of thirty pounds for performance of the condition of the said recognizance, and which said recognizance shall be acknowledged in the presence of the majority and signed by at least two of the justices or magistrates present at any such meetings for granting licences or authorities, and the same with the condition thereof fairly written or printed, shall forthwith or at the next general or quarter session of the peace, at farthest after granting such licence or authority be sent or returned to the clerk of the peace or person acting as such, for every county riding city liberty town corporate or place in that part of the United Kingdom called *England*, wherein such licences or authorities shall be granted to be by the said clerk of the peace or such other person acting as such duly entered or filed amongst the records of the sessions of the peace; and that for every such licence or authority granted without taking such recognizance, and for every such recognizance taken and not sent or returned as aforesaid, every justice of the peace or magistrate signing such licence or

In case Persons applying for Licences shall be prevented by Sickness, &c. from attending the Justices, then Justices may grant same on taking Security.

Penalty for granting Licence without Recognizance.

No. I.
3 Geo. IV. c. 77.

Licence to be in the Form in Schedule (B.)

authority shall forfeit and pay the sum of three pounds six shillings and eightpence; and every such licence or authority to be granted by justices of the peace or magistrates after the passing of this Act shall be in the form prescribed by the Schedule to this Act marked (B.): Provided always, that no police officer patrole constable or headborough shall be surety for any innkeeper alehouse keeper or victualler under this Act.

Certificate of good Conduct, &c. to be produced by Persons applying for Licences.

II. And for the better preventing the granting of licences or authorities to unfit and improper persons to keep alehouses or victualling houses or to sell ale beer or other exciseable liquors by retail, and the occurrence of disorderly conduct in such houses; be it further enacted, That no licence or authority for such purposes shall be granted to any person not thereunto licensed or authorised the year preceding, unless such person shall produce at the general annual meeting of the justices or magistrates, to be held for that purpose, a certificate under the hands of the parson vicar or curate, or of the major part of the churchwardens chapelwardens and overseers of the poor, and of four reputable and substantial householders and inhabitants, or under the hands of eight respectable and substantial householders and inhabitants of the parish or place where the person applying for such licence or authority shall have last inhabited or dwelt for a space of six months; which certificate shall set forth the number of the house and the name of the street or other true description of the house where such person so dwelt and also whether he or she was there a housekeeper or an inmate, and whether such person in such last-mentioned parish or place kept an alehouse or victualling house, and if so, the sign of such house; and shall also set forth that such person is of good fame sober life and conversation, and a fit and proper person to be entrusted with a licence for the purposes aforesaid; and it shall be mentioned in every such licence or authority to be granted to any person not licensed at the last general licensing day, that such certificate was produced; and in case such certificate in the form and signed in the manner aforesaid shall not on the occasions aforesaid be produced, or the licence to be granted in such last-mentioned cases shall omit to state that such certificate was so produced, such licence or authority shall be null and void; and every such certificate so required to be produced on such occasions as aforesaid, shall be annexed to the recognizance to be entered into by the person receiving or obtaining such licence or authority as aforesaid, and shall with such recognizance be sent or returned to the clerk of the peace or person acting as such as aforesaid: Provided always, that if any person shall forge or counterfeit any certificate or write any name on any such certificate to resemble imitate or represent the name of any parson vicar or curate or any churchwarden chapelwarden overseer of the poor or other person directed by this Act to sign such certificate, with an intent to deceive the justices of the peace granting or having power to grant such licences or authorities, or shall tender or produce any paper with such counterfeit name or writing thereupon, knowing such name or writing to be counterfeit, with intent to deceive the said justices, or shall take or receive any sum or sums of money for signing or procuring signatures to any such certificate, every person so offending being thereof lawfully convicted shall be adjudged to be guilty of a misdemeanor and shall suffer punishment accordingly.

Persons forging or receiving Money for Certificates to be guilty of a Misdemeanor.

Recognizances to be presented to Justices at Special Meetings to be held for that purpose.

III. And be it further enacted, That the recognizance in the form and with the surety or sureties hereby required to be entered into on granting licences or authorities to persons to keep alehouses or victualling houses or to sell ale beer or other exciseable liquors by retail, and the certificate in the form and with the signatures hereby required to be produced by persons not licensed for those purposes the preceding year, shall also be entered into and produced by persons applying for and obtaining such licences or authorities at any special meetings of the justices to be holden for those purposes, pursuant to the directions of the statute made and passed in the thirty-second year of the reign of his late Majesty King

32 G. 3. c. 59.

George the Third, intituled "An Act to amend so much of Two Acts made in the Twenty-sixth and Twenty-ninth Years of the Reign of his

late Majesty King *George* the Second, as relates to the licensing of Alehouse Keepers and Victuallers, and for better regulating Alehouses and the Manner of granting such Licences in future; and also of granting Licences to Persons selling Wines to be drank in their Houses.'

Names of Sureties to be entered in a Book.

IV. And be it further enacted, That the register or calendar required by law to be kept by clerks of the peace of recognizances to be taken and returned by justices of the peace on granting such licences as aforesaid, shall contain the names and places of abode of the several sureties who shall so enter into such recognizances; and that as well the entries of the names of such sureties, as of the other particulars of such recognizances already required to be registered, shall and they are hereby required to be entered by the respective clerks of the peace or other persons acting as such, to whom such recognizances shall be returned; and that for every recognizance there shall be paid by the clerk or clerks to the justices taking such recognizances to the said clerk of the peace, as their fee for filing or recording the said recognizances and for making such entry thereof, and of the names or name of the sureties or surety to be thereby bound, and for making and delivering copies of the said register as by law required, the sum of two shillings and no more, which shall be paid to the clerks of the said justices by the persons licensed over and above the fees payable by law to the said justices clerks; and it shall be lawful for any person or persons on application, at all seasonable times, to see inspect and examine every such register, so to be kept by the said clerks of the peace on payment or tender made by the person or persons requiring the same, to such clerks of the peace of the sum of one shilling for every such inspection or examination.

Registers of Sureties open to public Inspection.

Fees to be paid for Licences.

V. And be it further enacted, That from and after the passing of this Act it shall and may be lawful to and for the clerks to the several justices of the peace to be assembled at any general annual meeting for the purpose of granting licences or authorities to persons to keep alehouses or to sell ale beer or other exciseable liquors by retail in that part of the United Kingdom called *England*, and also at any special meeting for the like purposes to be held pursuant to the directions of the said Act of the thirty-second year of the reign of his said late Majesty, to ask demand and receive of and from every person to whom a licence or authority for the purposes aforesaid, shall be granted renewed or continued as and for the trouble of such clerks in filling up such licence or authority, and taking and returning the recognizance to be so entered into the sum of five shillings and no more, over and above the fees directed to be paid to the several clerks of the peace for filing such recognizances; and in case any clerk to such justices or other person acting as such shall demand or take or receive of or from any person to whom such licence or authority as aforesaid shall hereafter be granted or renewed or continued, as and for his fee or reward for the trouble of preparing the same, and taking and returning such recognizance as aforesaid, any further or greater fee or reward or recompence than the said sum of five shillings, every person so offending shall for every such offence and on conviction on the oath of one credible witness forfeit and pay the sum of five pounds, to be sued for recovered levied and applied in the same manner as any other pecuniary penalty imposed by this Act may be sued for recovered levied and applied.

Penalty on taking more than regular Fees, 5*l.*

Executors, &c. of licensed Person may be continued in Possession of such Licence, upon entering into the like Recognizances.

VI. And be it further enacted, That from and after the passing of this Act if any person duly licensed to keep an alehouse or victualling house or to sell ale beer or other exciseable liquors by retail in any house within that part of the United Kingdom called *England*, shall die before the expiration of such licence, or if any person so licensed or the executors administrators or assigns of the person dying so licensed, shall remove from or yield up the possession of such house in which such ale beer or other liquors shall by virtue of such licence be sold and shall assign such licence, or in case any such house shall become empty or unoccupied, the late occupier whereof was duly licensed at the last general meeting previous to the time such house became empty or unoccupied, it shall and may be lawful for two or more of his Majesty's justices of the peace or

No. I.
3 Geo. IV. c. 77.

persons acting as such for the county riding city liberty town corporate or place, at a special day of meeting to be holden within and for the same division or place in which the house shall be situate, to grant a licence or authority to the executors administrators or assigns of the person so dying who shall be possessed of such house, or to any new tenant or occupier upon any such removal, or upon the house becoming unoccupied as aforesaid, to open or continue open such house as an alehouse or victualling house, or to sell ale beer or other liquors by retail as aforesaid therein till the tenth of *October* then next ensuing, so as the person applying for such licence or authority shall produce such certificate and enter into such recognizance with such surety or sureties as hereinbefore directed; and every such recognizance to be taken and entered into at such special day of meeting, and every such certificate so to be produced shall be returned to the respective clerks of the peace in the same manner as the recognizances and certificates to be taken and produced at the said general annual meetings of the said justices are directed to be returned.

All General Annual Meetings to be in September.

VII. And be it further enacted, That from and after the passing of this Act all general annual meetings of the justices or magistrates, for the purpose of granting licences to sell ale beer and other exciseable liquors by retail, as well in cities and towns corporate as in all other places within that part of the United Kingdom called *England*, shall be held in the month of *September* in each and every year; any local custom or usage to the contrary thereof in anywise notwithstanding.

Allowance to be made for the Time unexpired of Licences on their Renewal.

VIII. Provided always, That all persons who hold licences to sell ale beer and other liquors by retail, which would expire at a different period of the year from that at which they will expire after the passing of this Act, shall be allowed in the payment of their duties upon the first renewal of their licences under this Act, for so much of their current year as shall not have then expired.

IX. And whereas by the laws now in force in that part of the United Kingdom called *England*, persons selling ale beer or other exciseable liquors by retail are liable and subject to different penalties and punishments for disorderly conduct committed or permitted or suffered in their houses; and by an Act made and passed in the twenty-sixth year of the reign of his late Majesty King *George* the Second, intituled 'An Act for regulating the Manner of licensing Alehouses in that part of *Great Britain* called *England*, and for the more easy convicting Persons selling Ale and other Liquors without Licence,' it is enacted, 'That any justice of the peace for any county riding city liberty or town corporate wherein such licence shall be granted, upon complaint or information that such licensed person had done or committed any act offence or misdemeanor whereby in the judgment of the same justice the recognizance of such licensed person might be forfeited, or the condition thereof broken, might by summons under his hand and seal require such person so complained of or informed against to appear at the next general or quarter sessions of the peace for the said county riding city liberty or town corporate, then and there to answer the matter of such complaint or information and also might bind the person or persons so making such complaint or information or any other person or persons in a recognizance to appear at such general or quarter sessions and give evidence against such persons complained of or informed against; and the justices of the peace in their general or quarter sessions, should have full power to direct the jury which should attend at such sessions for the trial of traverses or some other jury of twelve honest and substantial men, to be then and there impannelled by the sheriff without fee or reward, to inquire of the misdemeanor charged in the said complaint or information, and if such jury should find that the person so complained of or informed against had done any Act whereby the condition of his recognizance was broken, such act being specified in such complaint or information, it should or might be lawful for the court at such general or quarter sessions, to adjudge such person guilty of the breach of such recognizance, which verdict and adjudication should be final to all intents and purposes; and

26 G. 2. c. 31.

No. I.
3 Geo. IV. c. 77.

thereupon the said justices should order the recognizance entered into by such offender to be estreated into his Majesty's Court of Exchequer to be levied to his Majesty's use; and that the said person, the condition of whose recognizance should be so adjudged to be broken and forfeited, should from and after such adjudication be utterly disabled to sell any ale beer cyder perry spirituous liquors or strong waters for the space of three years, and any licence or licences granted or to be granted to such person during such term should be void and of none effect; be it further enacted by the authority aforesaid, That so much of the said recited Act of the twenty-sixth year of his late Majesty King *George* the Second, as relates to the forfeiture of the recognizance of any person licensed to keep a common alehouse or victualling house or to sell ale beer or other exciseable liquors by retail, and the subsequent disability of such party on such adjudication to hold a licence for the space of three years, be and the same is hereby repealed; and also, that from and after the passing of this Act, the several statutes and Acts and parts of statutes and Acts following shall be repealed; that is to say, so much of a statute passed in the first year of the reign of King *James* the First, as relates to penalties and punishments of innkeepers victuallers and alehouse keepers for the offences therein mentioned; and also so much of two statutes passed in the seventh and twenty-first years respectively of the reign of King *James* the First, as relates to the disabling persons to keep an alehouse for three years in the cases therein mentioned; and also so much of a statute passed in the first year of the reign of King *Charles* the First, as relates to the penalty on alehouse keepers and victuallers therein mentioned; and also so much of an Act passed in the thirtieth year of the reign of King *George* the Second, as relates to the penalty on persons licensed to sell any sorts of liquors in the case therein mentioned, and which said several Acts and parts of Acts are hereby repealed accordingly; and that from and after the passing of this Act, every licensed person selling ale beer or other exciseable liquors by retail in that part of the United Kingdom called *England*, who shall be lawfully convicted of any offence against the condition of any subsisting recognizance entered into by such licenced person, or against the tenor of any licence granted and now subsisting, or hereafter to be granted, or against the condition of the recognizance by this Act required to be entered into by such licensed person, or against the tenor of the licence to be granted by virtue of this Act, shall for every such offence forfeit and undergo the several penalties and punishments and disabilities hereinafter mentioned and provided in that behalf, instead and in lieu of the several pecuniary and other punishments and disabilities which they are now or immediately before the passing of this Act were liable or subject to by any law then in force; (that is to say) for the first offence a sum not exceeding five pounds with the costs and expences of convicting such offender; and in case the said penalty with the costs and expences of convicting such offender shall not be paid within the space of fourteen days next after such conviction, that then the offender shall suffer imprisonment for the space of one month in the common gaol or house of correction for the county riding city liberty town corporate or place where such conviction shall take place, unless he or she shall sooner pay such penalty and the costs charges and expences of such conviction and executing the same; and for the second offence a sum not exceeding ten pounds, and also the costs and expences of convicting such offender; and in case such penalty with the charges and expences of convicting such offender the second time shall not be paid within the space of seven days next after such second conviction, that then the offender shall suffer imprisonment for the space of two calendar months, in such common gaol or house of correction as aforesaid, unless he or she shall sooner pay such second penalty and the costs charges and expences of such second conviction and executing the same; and for the third offence against the tenor of such licence or recognizance it shall be lawful for any one justice of the peace of any county riding city liberty or town corporate or place wherein such licence shall be granted, and it is hereby required of him upon complaint or information on oath that such licensed person hath committed such third offence, to issue a summons under his

Recited Act in part repealed.

Repeal of certain Acts and Parts of Acts.
1 J. 1. c. 9.
7 J. 1. c. 10.
21 J. 1. c. 7.
1 C. 1. c. 4.
30 G. 2. c. 24.

Offending against Condition of Recognizances.

Penalties imposed for First Offence not exceeding 5*l.*

Second Offence not exceeding 10*l.*

Third Offence not exceeding 100*l.*

No. I.
3 Geo. IV.
c. 77.

hand and seal, requiring such person so complained of or informed against for such last-mentioned offence to appear at the next general or quarter sessions of the peace for the county riding city liberty town corporate or place wherein the person so complained of or informed against shall reside, then and there to answer to the matter of such complaint or information, and also to bind the person or persons who shall make such complaint or information or any other person or persons in a recognizance to appear at such general or quarter session and give evidence against such person so complained of or informed against; and the justices of the peace in their general or quarter sessions of the peace shall have power to direct the jury which shall attend at such sessions for the trial of traverses, or some other jury of twelve honest and substantial men, to be then and there impannelled by the sheriff bailiff or other chief officer without fee or reward, to inquire of the misdemeanor charged in the said last-mentioned complaint or information; and if such jury shall find that the person so complained of or informed against hath committed any act against the tenor of the said recognizance, such act being specified in the said complaint or information and such person so complained of or informed against having been twice previously convicted for offences against the tenor of the said licence and recognizance, it shall and may be lawful for the court at such general or quarter sessions to adjudge such person guilty of a third offence against the tenor of and a breach of the said recognizance, which verdict and adjudication shall be final to all intents and purposes; and thereupon the said justices shall have power and authority to punish the party so to be convicted by fine, not exceeding the sum of one hundred pounds, or at the discretion of the said court to declare the said recognizance so entered into by the said offender to be forfeited, or immediately to adjudge the licence or authority granted to such offender to be forfeited and void; and on such last-mentioned adjudication on such verdict such licence shall from thenceforth be void accordingly, and every licence then held by such offender to sell spirituous liquors cyder perry or *British* sweets shall thereupon also be void; and the said person the condition of whose recognizance shall be so adjudged to be broken and forfeited shall from and after such last-mentioned adjudication be utterly disabled to sell ale beer cyder perry spirituous liquors or strong waters for the space of three years to be computed from the time of the offence committed for which such adjudication shall be pronounced; and any licence or licences granted or to be granted to such person during such term to be computed as aforesaid, shall be void and of none effect; provided that the said justices may at the request of the prosecutor or party so complained of or informed against or either of his or her sureties, and upon sufficient cause shewn adjourn the hearing and trial of the said complaint or information to the then next general or quarter sessions of the peace, when the same shall be finally determined: Provided always, that no recognizance under this Act shall be declared to be forfeited unless upon being directed so to be by the said court of general or quarter sessions upon such third conviction as aforesaid; and provided also, that if such licensed person or persons so complained of or informed against for such last-mentioned offence shall not appear at the next general or quarter sessions of the peace pursuant to the summons, it shall and may be lawful for the justices in their general or quarter sessions assembled on proof of the service of such summons to inquire into the matter alledged, and on proof thereof to proceed against the person or persons so summoned and not appearing, in the same manner as if such person or persons had appeared pursuant to his her or their recognizance.

Justices may postpone Trials, &c.

Recognizances not forfeited unless declared so by Quarter Sessions.

Production of Recognizance by Clerk of Peace sufficient Evidence of the Person complained of being a licensed Victualler.

X. Provided always, and it is hereby declared and enacted, That on every such inquiry so directed to be made before a jury as aforesaid, the production of the recognizance entered into by the party complained against, or by his sureties, and filed with the clerk of the peace or person acting as such, shall be sufficient evidence of the fact of such party so complained against being a licensed victualler: Provided always,

that if the jury to be impannelled to try the matter of such complaint or information shall on such trial find the party so complained of or informed against not guilty of the offence so laid to his or her charge, or if on the verdict of guilty by such jury the court shall adjudge the offender to be punished by fine or by declaring the recognizance to be forfeited, instead of vacating the licence of such offender as aforesaid, the party so holding or possessing such licence shall nevertheless after such adjudication of not guilty, or punishment by fine on a verdict of guilty, be liable to the same punishment and disability as any other licensed victualler who shall have been twice convicted of offences against the condition of his or her recognizance, on any subsequent complaint or information and inquiry thereon at such court of sessions, for any offence in breach of such recognizance and licence.

Clerks to Justices to be deemed Prosecutors.

XI. And be it further enacted, That in all cases where complaint or information shall be made against any person so licensed as aforesaid, for a third offence against the tenor of his or her recognizance, the justices of the peace before whom such complaint or information shall be made shall, if they shall deem such offence to amount to a breach of such recognizance, and they are hereby required to order the subsequent proceedings at the sessions to obtain an adjudication on such complaint or information to be carried on by the clerk or clerks, or the person or persons acting as such, to the general annual meetings of the justices for licensing alehouses and victualling houses for the division or place where such house shall be situated; and such clerk or clerks are hereby authorised and required to conduct such prosecution accordingly; and the expences attending such prosecution shall and they are hereby directed to be borne and defrayed out of the rate or rates made and levied or to be made and levied for the maintenance of the poor of the parish or place where such offence shall be committed.

Expences to be paid out of County Rates.

Justices may proceed in a summary way.

XII. And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for two justices of the peace for the time being of the county or place where any of the offences against this Act for the commission of which pecuniary penalties are imposed shall be committed, to hear and determine the same offences in a summary way, which same justices of the peace are hereby authorised and required upon any information exhibited or complaint made in that behalf to or before them, to summon the party or parties accused and also the witnesses on either side (if they shall be required to summon any such witnesses) and upon the appearance or contempt of the party or parties accused by not appearing to proceed to examine and hear the matter in a summary way, and also to examine such witnesses upon oath as shall be produced therein (which oath the said justices are hereby empowered to give and administer) and to give their judgment thereon; and in case they shall convict the party or parties so accused or complained against of the offence laid to his her or their charge, and such party or parties so convicted shall refuse or neglect to pay the penalty or penalties for which he she or they shall stand convicted within the time hereinbefore mentioned for that purpose, together with the costs of such conviction or convictions, to be assessed settled and ascertained as aforesaid, that then and in every such case it shall and may be lawful for such justices, and they are hereby authorised and required to issue their warrant or warrants under their hands and seals for the apprehending and committing to the common gaol or house of correction as aforesaid every such offender for such time and in such manner as the nature of the offence shall require, according to the provisions aforesaid and the true intent and meaning of this Act.

Persons convicted to be committed for Non-payment of Penalties.

Penalty on Witnesses not attending when summoned.

XIII. And be it further enacted by the authority aforesaid, That if any person or persons shall be summoned as a witness or witnesses to give evidence before any such justices of the peace touching any of the matters aforesaid, either on the part of the prosecutor or of the person or persons accused, and shall neglect or refuse to appear at the time and place to be for that purpose appointed without a reasonable excuse for such his her or their neglect or refusal, to be allowed of by such

No. I.
3 Geo. IV. c. 77.

justices of the peace, or appearing shall refuse to be examined on oath and give evidence before such justices of the peace before whom the prosecution shall be depending, that then every such person shall forfeit for every such offence the sum of forty shillings to be levied and paid in such manner and by such means as are hereinbefore directed as to other pecuniary penalties.

Securities may be given and taken for the Payment of Penalties.

XIV. And be it further enacted, That if any person or persons shall think himself herself or themselves aggrieved by the judgment or conviction of any justices of the peace for any of the offences aforesaid for the commission of which a pecuniary penalty is annexed, and shall give security to the satisfaction of such justices of the peace for the payment of the penalty costs and expences to be expressed in the said conviction within twenty-four hours after the same shall be made, that then and in every such case after such security given and not otherwise, it shall and may be lawful to and for such offender or offenders to appeal from and against such conviction or convictions to the justices of the peace assembled at the next general or quarter sessions of the peace to be held for such county riding division liberty city town or place, unless such sessions of the peace shall be held within six days or less next after such conviction or convictions shall be so had or made, and in that case to the justices of the peace to be assembled at the next sessions after such first-mentioned sessions and not afterwards; and that the justices of the peace assembled at such sessions shall thereupon proceed to hear and determine the matter of every such appeal, and their judgment thereon shall be final and conclusive to all intents and purposes whatsoever; and the justices of the peace so assembled at such sessions are hereby authorised and required to award such costs as to them shall appear just and reasonable to be paid by either party, not exceeding in the whole the sum of five pounds on any one appeal.

Appeal.

For preventing vexatious Appeals.

XV. And in order to prevent frivolous and vexatious appeals, Be it further enacted by the authority aforesaid, That a conviction in the form or to the effect following, *mutatis mutandis*, (as the case shall happen to be) shall be good and effectual to all intents and purposes whatsoever without stating the case or the facts or evidence in any more particular manner; (that is to say),

Form of Conviction.

'Middlesex. } BE it remembered, That on this day of
' in the year *A. B.* of was duly
' convicted before us, *C. D.* and *E. F.*, two of his Majesty's justices of
' the peace for the county or city of of an offence
' against the condition of a recognizance entered into by the said *A. B.*
' on obtaining a licence to sell ale, beer, or other
' exciseable liquors by retail, whereby he, she, or they has or have for-
' feited the sum of this being the first [*or* second
' offence, *as the case shall happen to be*] besides the costs and expences of
' this conviction, which costs and expences we the said justices of the
' peace do hereby ascertain and assess at the sum of
' pursuant to the statute in such case made and provided. Given under
' our hands and seals the day and year above written.'

Convictions to be registered and stated as to being the First, Second, or Third Offence.

XVI. And be it further enacted, That on every such conviction so to be had or made as aforesaid, the justices of the peace before whom the same shall be made shall return the same to the next quarter sessions of the peace to be holden for such county riding division liberty city town corporate or place, and the record of such conviction shall, unless the same shall be afterwards quashed on appeal as hereinbefore directed, be evidence against the party thereby convicted in any prosecution to be instituted against him or her or them for a third or other offence in the nature of a third offence constituting or to constitute a breach of the condition of his her or their recognizance entered into on obtaining a licence as hereinbefore directed; and the several clerks of the peace to whom such convictions shall be returned shall immediately on such return make or cause to be made a memorandum or entry of such conviction in the calendar or register to be kept by them of the names and places

of abode of the several persons so licensed as aforesaid, and shall in such entry state whether such conviction be the first or second or other subsequent conviction of the offending party.

XVII. And be it further enacted, That from and after the tenth day of *October* one thousand eight hundred and twenty-three, no licence or authority shall be granted to any person whatever in that part of the United Kingdom called *England*, by the justices of the peace, or persons acting as such, to retail ale beer or other exciseable liquors in any house or place which shall not have been used for such purpose or purposes by virtue of a licence which shall have been granted at a preceding general annual meeting of the justices, unless the person intending to apply for such licence or authority shall give notice in writing to the clerk or clerks to the justices at such general meetings, three calendar months prior to the general annual meeting of the justices of the peace for granting licences for the place in which the house shall be situated for which such licence shall be applied for, and shall affix or cause to be affixed three copies of such notice written in a fair and legible hand on the principal door or most conspicuous part of the house for which such licence is intended to be applied for, and on the door of the church of the parish in which such house shall be situated on three several days within the months of *May* or *June*, between the hours of ten of the clock in the forenoon and of four of the clock in the afternoon, and between each of which days of affixing such notices the space of seven days shall elapse; which notice and the copies thereof so to be affixed shall be signed by the party interested in such house and intending to make such application as aforesaid, or his her or their agent thereunto authorised; and every such notice shall state and set forth the situation of the said house in a true and particular manner, together with the rate of building thereof, where any such rate of building exists or is prescribed, and the name place of abode and description of the party so applying, and also the name and place of abode of the person proposed to be licensed therein; and every licence to be granted to sell ale beer or other liquors by retail in such new house or other place not having been used for any of the purposes aforesaid by virtue of a licence granted the preceding year without such previous notice having been given as aforesaid shall be void to all intents and purposes.

Licences not to be granted to any Person whose House shall not have been previously licensed at a preceding General Annual Meeting of the Justices; unless Notices of Application be given to the Clerk of the Peace, and affixed in the Manner herein directed.

XVIII. And whereas it is expedient that persons empowered to grant licences by virtue of this Act should not be swayed by interest in the execution of such powers; Be it therefore enacted by the authority aforesaid, That no justice of the peace or magistrate in any county riding city liberty town corporate or place in that part of the United Kingdom called *England*, who is a brewer maltster distiller or dealer in or retailer of ale beer or other exciseable liquors, or is concerned in partnership with any person as a brewer maltster distiller or dealer in or retailer of ale beer or other exciseable liquors, or shall be the manager or agent of or for any house licensed or about to be licensed for any of the purposes aforesaid at any of the time or times when any of the powers of this Act are to be executed, shall act in any of the meetings for granting of any licence or licences authority or authorities, or shall convict or join in any conviction or in the determination of any application for a licence or authority to a person to keep any house not before licensed or in the determination of any appeal directed by this Act; and every justice of the peace or magistrate who shall knowingly or wilfully offend in any of the premisses shall for every such offence forfeit and pay the sum of one hundred pounds, to be recovered by any person who will sue for the same within six calendar months after such offence committed by action of debt or on the case or by bill suit or information in any of his Majesty's courts of record wherein no essoin protection or wager at law nor more than one imparlance shall be allowed; which said penalty of one hundred pounds shall be paid, one moiety thereof to the person who sues for the same and the other moiety to the King's Majesty his heirs and successors.

Justices not to act as such where personally interested.

Penalty on Justices so offending.

No I.
3 Geo. IV, c. 77.

Constables, &c. disqualified from holding licensed Houses.

No licensed Person liable to serve as Constable.

Penalty for serving as Constable or Deputy Constable, 10*l.*

XIX. And be it further enacted, That from and after the tenth day of *October* one thousand eight hundred and twenty-three, all and every person and persons using and exercising or that hereafter shall use and exercise the trade or business of a licensed victualler or alehouse keeper, or who shall sell ale beer or other exciseable liquors by retail by virtue of any licence or authority licences or authorities already granted or hereafter to be granted by the justices of the peace in that part of the United Kingdom called *England*, for so long as he or they shall use and exercise the said trade or business or shall hold such licence or licences authority or authorities and no longer, shall at all times hereafter be disqualified from serving the office of constable headborough police officer or patrole; and if at any time hereafter any such person or persons using the said trade or business or holding and using such licence or licences authority or authorities shall be chosen or elected into the office of constable or headborough, that then such person or persons producing such licence or authority or licences or authorities to use and exercise the said trade of a licensed victualler or alehouse keeper, or to sell ale beer or other exciseable liquors by retail duly issued pursuant to the provisions of this Act, or of any other Act law or charter now in force, to the person or persons by whom he shall be so elected or appointed or by or before whom he shall be summoned returned or required to serve or hold the said office of constable shall be absolutely discharged from the same; and such nomination election return or appointment shall be utterly void and of none effect, any order custom law or statute to the contrary in anywise notwithstanding; nor shall any such person using or exercising the said trade or business of a licensed victualler or to whom any such licence or authority shall be granted for the purposes aforesaid while he shall so exercise the said trade or hold and use such licence or authority take upon himself or serve or execute the office of deputy to any constable already chosen or hereafter to be chosen and elected to that office within that part of the United Kingdom called *England*, on pain of forfeiting for every act to be done committed or executed by him as or in the character of deputy to any such constable as aforesaid, the sum of ten pounds to be recovered in manner hereinbefore directed by virtue of this Act.

Alehouse Keeper to use Standard Measures.

Penalty not exceeding 40*s.*

XX. And be it further enacted, That from and after the tenth day of *October* one thousand eight hundred and twenty-two, all persons keeping common inns alehouses or victualling-houses and retailing ale and beer shall sell the same in and from their houses by a full ale quart pint or half-pint made of pewter sized to the standard and stamped or marked to be of due size according to the standard, either from the exchequer or from some city town corporate borough or market-town, where an ale quart pint or half-pint made from the said standard shall be kept for that purpose, and shall not retail any ale or beer in any other vessels than such stamped pewter ale quarts pints and half-pints, unless such ale or beer shall have been first measured in and by such stamped pewter ale quart pint or half-pint in the presence of the guest or customer purchasing the same, under pain of forfeiting for every offence a sum not exceeding forty shillings (together with the costs of conviction) to be recovered within thirty days next after the committing of such offence before any two justices of the peace acting for the county or place in which such offence shall have been committed, the one half to be paid to the person who shall prosecute or sue for the same, and the other half to the poor of the parish or place where such offence shall have been committed; and in case of the non-payment thereof they shall cause the same to be levied upon goods and chattels of the offender by warrant of distress under their hands and seals.

Brewer to use Casks of full Size.

XXI. And be it further enacted, That from and after the passing of this Act, if any brewer or wholesale dealer in ale or beer in that part of the United Kingdom called *England*, shall sell and deliver to any innkeeper alehouse keeper victualler or other person whomsoever any ale or beer in barrels casks or other vessels which shall not be able to contain the full quantity of ale or beer for which the said brewer or wholesale dealer in

ale or beer shall charge the purchaser thereof, such brewer or wholesale dealer in ale or beer shall forfeit and pay a sum not exceeding five pounds for every such barrel cask or other vessel so deficient in size as aforesaid, together with the costs of conviction, to be recovered by information before one justice of the peace within thirty days next after the making of such charge, who in case of the non-payment thereof shall cause the same to be levied upon the goods and chattels of the party so offending.

Penalty not exceeding 5*l.* for each Cask deficient in Size.

XXII. And be it further enacted, That all fines penalties and forfeitures imposed by this Act, and for which no other means for recovering thereof are hereby provided, may be sued for and recovered by action of debt bill plaint or information in any of his Majesty's courts of record at *Westminster;* and that one moiety of all and every fine penalty or forfeiture by this Act imposed, and not expressly directed to be otherwise applied, shall be to his Majesty his heirs and successors, and the other moiety to him or them who shall inform discover or sue for the same.

Application of Penalties.

XXIII. Provided always, and be it further enacted, That nothing herein contained shall extend or be construed to extend to alter the time or times of granting licences for keeping common inns or alehouses in the city of *London.*

Act not to extend to the City of London.

XXIV. Provided also, and be it further enacted, That nothing in this Act contained is intended to repeal any former Act or Acts of Parliament made in this behalf; except only so far as the same or any of the provisoes and enactments thereof have been expressly repealed altered or amended by the present Act.

Other Acts not repealed.

XXV. Provided always, and be it further enacted, That nothing in this Act contained shall extend to alter or in any manner to affect any of the rights or privileges of the universities of *Oxford* or *Cambridge*, or the powers of the chancellors or vice chancellors of the same, as by law possessed under the respective charters of the said universities.

Universities not affected.

XXVI. And be it further enacted, That this Act shall commence and take place from the passing thereof, and from thence shall continue and be in force for and during the term of three years, and from thence to the end of the then next Session of Parliament.

Duration of Act limited to Three Years.

Schedule (A.)

FORM OF RECOGNIZANCE.

Middlesex, } AT a meeting of his Majesty's justices of the peace, acting in and for the division [*or* liberty, &c. *as the case may be*] held at in the division [*or* liberty, &c.] and county aforesaid, on the day of one thousand eight hundred and *T. S.* at the sign of, &c. victualler, acknowledges himself to be indebted to our sovereign Lord the King, in the sum of pounds, *E. F.* of, &c. acknowledges himself to be indebted to our Sovereign Lord the King in the sum of pounds, to be levied upon their several goods and chattels lands and tenements by way of recognizance to his Majesty's use his heirs and successors, upon condition that the said *T. S.* do and shall keep the true assize in uttering and selling bread and other victuals beer ale and other liquors in his her or their house, and shall not fraudulently dilute or adulterate the same, and shall not use in uttering and selling thereof any pots or other measures that are not of full size, and shall not wilfully or knowingly permit drunkenness or tippling, nor get drunk in his her or their house or other premises; nor knowingly suffer any gaming with cards draughts dice bagatelle or any other sedentary game in his her or their house, or any of the outhouses appurtenances or easements thereto belonging, by journeymen labourers servants or apprentices; nor knowingly introduce permit or suffer any bull bear or badger-baiting cock-fighting or other such sport or amusement in any part of his her or their premises; nor shall knowingly or designedly, and

No. I.
3 Geo. IV.
c. 77.

with a view to harbour and entertain such, permit or suffer men or women of notoriously bad fame, or dissolute girls and boys to assemble and meet together in his her or their house or any of the premises thereto belonging; nor shall keep open his her or their house, nor permit or suffer any drinking or tippling in any part of his her or their premises during the usual hours of divine service on Sundays; nor shall keep open his her or their house or other premises during late hours of the night or early in the morning for any other purpose than the reception of travellers, but do keep good rule and order therein according to the purport of a licence granted for selling ale beer or other liquors by retail in the said house and premises for one whole year, commencing on the tenth day of October next, then this recognizance to be void, or else to remain in full force.

Schedule (B.)

AT a general meeting of his Majesty's justices of the peace, acting in and for the division, in the county of holden at within the said division, on the day of one thousand eight hundred and for the purpose of authorising and empowering persons to keep common inns alehouses or victualling houses, we being of his Majesty's justices of the peace acting in and for the said division and county assembled at the said meeting, do hereby authorise and empower at the sign of the in in the division and county aforesaid having produced the certificate required by law to keep a common inn alehouse or victualling house, and to utter and sell in the said house wherein now dwelleth, called or known by the sign of the and in the premises thereunto belonging and not elsewhere, victuals and all such exciseable liquors as shall be licensed and empowered to sell under the authority and permission of any excise licence, which shall be duly granted by the commissioners of excise or persons to be appointed or employed by them for that purpose, provided that the true assize in bread beer ale cyder and all other liquors be duly kept; and that the said do not fraudulently dilute or adulterate the same or sell the same knowing them to have been fraudulently diluted or adulterated, and do not use in uttering and selling thereof any pots or other measures that are not of full size, and do not wilfully or knowingly permit drunkenness or tippling, or get drunk in house or other premises, nor knowingly suffer any gaming with cards draughts dice bagatelle or any other sedentary game in house or any of the outhouses appurtenances or casements thereto belonging, by journeymen labourers servants or apprentices; nor knowingly introduce permit or suffer any bull bear or badger-baiting cock-fighting or other such sport or amusement in any part of premises; nor shall knowingly and designedly and with a view to harbour and entertain such, permit or suffer men or women of notoriously bad fame, or dissolute girls and boys to assemble and meet together in house or any of the premises thereto belonging; nor shall keep open house, nor permit or suffer any drinking or tippling in any part of premises during the hours of divine service on Sundays; nor shall keep open house or other premises during late hours of the night or early in the morning for any other purpose than the reception of travellers, but that good order and rule be maintained and kept therein; the authority and power hereby granted to continue in force for one whole year, from the tenth day of October next, and no longer.

Signed

ADDENDA

TO

PART VI. CLASS VII. *a.*

Cattle.

[No. I.] 3 George IV. c. 71.—An Act to prevent the cruel and improper Treatment of Cattle.—[22*d July* 1822.]

3 Geo. IV. c. 71.

WHEREAS it is expedient to prevent the cruel and improper treatment of horses mares geldings mules asses cows heifers steers oxen sheep and other cattle: May it therefore please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That if any person or persons shall wantonly and cruelly beat abuse or ill-treat any horse mare gelding mule ass ox cow heifer steer sheep or other cattle, and complaint on oath thereof be made to any justice of the peace or other magistrate within whose jurisdiction such offence shall be committed, it shall be lawful for such justice of the peace or other magistrate to issue his summons or warrant at his discretion to bring the party or parties so complained of before him or any other justice of the peace or other magistrate of the county city or place within which such justice of the peace or other magistrate has jurisdiction, who shall examine upon oath any witness or witnesses who shall appear or be produced to give information touching such offence, (which oath the said justice of the peace or other magistrate is hereby authorised and required to administer); and if the party or parties accused shall be convicted of any such offence either by his her or their own confession or upon such information as aforesaid, he she or they so convicted shall forfeit and pay any sum not exceeding five pounds nor less than ten shillings to his Majesty his heirs and successors; and if the person or persons so convicted shall refuse or not be able forthwith to pay the sum forfeited, every such offender shall by warrant under the hand and seal of some justice or justices of the peace or other magistrate within whose jurisdiction the person offending shall be convicted, be committed to the house of correction or some other prison within the jurisdiction within which the offence shall have been committed, there to be kept without bail or mainprize for any time not exceeding three months.

Magistrates empowered to inflict a Penalty on Persons convicted of cruel Treatment of Cattle.

II. Provided always, and be it enacted by the authority aforesaid, That no person shall suffer any punishment for any offence committed against this Act, unless the prosecution for the same be commenced within ten days after the offence shall be committed; and that when any person shall suffer imprisonment pursuant to this Act for any offence contrary thereto in default of payment of any penalty hereby imposed, such person shall not be liable afterwards to any such penalty.

No Person to be punished, unless Complaint made within Ten Days after the Offence.

III. Provided also and be it further enacted, That no order or proceedings to be made or had by or before any justice of the peace or other magistrate by virtue of this Act shall be quashed or vacated for want of

Proceedings not to be quashed for Want of Form.

No. I.
3 Geo. IV. c. 71.

form, and that the order of such justice or other magistrate shall be final; and that no proceedings of any such justice or other magistrate in pursuance of this Act shall be removable by certiorari or otherwise.

Form of Conviction.

IV. And for the more easy and speedy conviction of offenders under this Act, be it further enacted, That all and every the justice and justices of the peace or other magistrate or magistrates, before whom any person or persons shall be convicted of any offence against this Act, shall and may cause the conviction to be drawn up in the following form of words, or in any other form of words to the same effect, as the case shall happen; (*videlicet*),

'BE it remembered, That on the Day of
'in the Year of our Lord
'*A. B.* is convicted before me, One of his Majesty's Justices of the
'Peace for *or* Mayor or other Magistrate
'of [*as the case may be*] either by his own con-
'fession, or on the Oath of One or more credible Witness or Witnesses
'[*as the case may be*] by virtue of an Act made in the Third Year of
'the Reign of his Majesty King *George* the Fourth, intituled 'An Act
'to prevent the cruel and improper Treatment of Cattle,' [*specifying the*
'*Offence and Time and Place where the same was committed, as the case*
'*may be.*] Given under my Hand and Seal, the Day and Year above
'written.'

Justices to order Compensation to Persons vexatiously complained against.

V. And be it further enacted, That if on hearing any such complaint as is hereinbefore mentioned, the justice of the peace or other magistrate who shall hear the same shall be of opinion that such complaint was frivolous or vexatious, then and in every such case it shall be lawful for such justice of the peace or other magistrate to order adjudge and direct the person or persons making such complaint, to pay to the party complained of any sum of money not exceeding the sum of twenty shillings, as compensation for the trouble and expence to which such party may have been put to by such complaint; such order or adjudgment to be final between the said parties, and the sum thereby ordered or adjudged to be paid and levied in manner as is hereinbefore provided for enforcing payment of the sums of money to be forfeited by the persons convicted of the offence hereinbefore mentioned.

Limitation of Actions.

VI. And be it further enacted by the authority aforesaid, That if any action or suit shall be brought or commenced against any person or persons for any thing done in pursuance of this Act, it shall be brought or commenced within six calendar months next after every such cause of action shall have accrued and not afterwards, and shall be brought laid and tried in the county city or place in which such offence shall have been committed and not elsewhere; and the defendant or defendants in such action or suit may plead the general issue, and give this Act and the special matter in evidence at any trial or trials to be had thereon, and that the same was done in pursuance and by authority of this Act; and if the same shall appear to have been so done, or if any such action or suit shall not be commenced within the time before limited, or shall be laid or brought in any other county city or place than where the offence shall have been committed, then and in any such case the jury or juries shall find for the defendant or defendants; or if the plaintiff or plaintiffs shall become nonsuit, or shall discontinue his action or actions, or if judgment shall be given for the defendant or defendants therein, then and in any of the cases aforesaid such defendant or defendants shall have treble costs, and shall have such remedy for recovering the same as any defendant or defendants hath or may have for his her or their costs in any other cases by law.

ADDENDA

TO

PART VI. CLASS XXII.

Highways.

[No. I.] 3 George IV. c. 126.—An Act to amend the general Laws now in being for regulating Turnpike Roads in that Part of *Great Britain* called *England*.—[6*th August* 1822.]

WHEREAS the laws now in force for the general regulation of turnpike roads in that part of *Great Britain* called *England*, are found to be ineffectual and require amendment, wherefore for remedy thereof, be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the first day of *January* one thousand eight hundred and twenty-three, an Act passed in the thirteenth year of the reign of his late Majesty King *George* the Third, intituled 'An Act to explain, amend, and reduce into One Act of Parliament, the general Laws now in being for regulating the Turnpike Roads in that Part of *Great Britain* called *England*, and for other purposes;' and also an Act passed in the fourteenth year of his said late Majesty's reign, intitled 'An Act to repeal a Clause in an Act made in the Thirteenth Year of his present Majesty's reign, intitulled "An Act to explain, amend, and reduce into One Act "of Parliament, the general Laws now in being for regulating the "Turnpike Roads in that Part of *Great Britain* called *England*, and "for other Purposes," which regulates the Width of the Wheels, and the Length of Carriages liable to be weighed, and for indemnifying Persons who have offended against the said Clause;' and also an Act passed in the fourteenth year of his said late Majesty's reign, intituled 'An Act to explain and amend an Act made in the Thirteenth Year of his present Majesty's reign, intitulled "An Act to explain, amend and reduce into "One Act of Parliament, the general Laws now in being for regulating "the Turnpike Roads in that Part of *Great Britain* called *England*, and for other Purposes," so far as the same relates to the continuing and granting an additional Term of Five Years to Acts made for amending Turnpike Roads;' and also an Act made in the fourteenth year of the reign of his said late Majesty, intituled 'An Act to repeal so much of an Act made in the last Session of Parliament, for reducing into One Act the general Laws relating to Turnpike Roads, as exempts Persons from the Payment of Tolls at Side Gates erected at Places specified in any Act of Parliament;' and also an Act made in the fourteenth year of his said late Majesty's reign, intitulled 'An Act for explaining and altering an Act made in the Thirteenth Year of his present Majesty, intituled "An "Act to explain, amend, and reduce into One Act of Parliament, the "general Laws now in being for regulating the Turnpike Roads in that "Part of *Great Britain* called *England*," and for other Purposes,' so far as the same relates to the Payment of additional Tolls at Weighing Engines,

3 Geo. IV. c. 126.

The following Acts repealed, viz.

13 G. 3. c. 84.

14 G. 3. c. 14.

14 G. 3. c. 36.

14 G. 3. c. 57.

14 G. 3. c. 82.

No. I.
3 Geo. IV. c.126.

and the Number of Horses to be used in Carriages drawn on Turnpike Roads, and for allowing certain Exemptions with respect to Weight and Payment of Toll in particular Cases;' and also an Act passed in the sixteenth year of his said late Majesty's reign, intituled 'An Act for repealing a Clause in an Act made in the Thirteenth Year of the Reign of his present Majesty, intituled "An Act to explain, amend, and reduce into "One Act of Parliament, the general Laws now in being for regulating "the Turnpike Roads in that Part of *Great Britain* called *England*, "and for other Purposes," which relates to the Countersinking of the Tire of the Wheels of all Waggons, Wains, and other Carriages to be used on Turnpike Roads; and for explaining a Provision in the said Act with respect to the Fellies and Tire of Carriages having the Fellies of the Wheels of the Guage of Six Inches or upwards;' and also an Act passed in the sixteenth year of his said late Majesty's reign, intituled 'An Act for suspending, for a limited Time, so much of an Act made in the Thirteenth Year of his present Majesty's Reign, intituled "An "Act to explain, amend, and reduce into One Act of Parliament, the "general Laws now in being for regulating the Turnpike Roads in that "Part of *Great Britain* called *England*, and for other Purposes," as is to subject Carriages having the Fellies of the Wheels thereof of less Breadth or Guage than Six Inches to the Payment of Double Tolls, and for vacating Contracts for leasing Tolls;' and also an Act passed in the seventeenth year of his said late Majesty's reign, intituled 'An Act for limiting the Exemptions from Tolls (granted by any Act or Acts of Parliament for repairing Turnpike Roads,) on account of Cattle going to and from Water or Pasture;' and also an Act passed in the eighteenth year of his said late Majesty's reign, intituled 'An Act for repealing so much of an Act made in the Thirteenth Year of his present Majesty's Reign, intituled "An Act to explain, amend, and reduce into One Act "of Parliament, the general Laws now in being for regulating the "Turnpike Roads in that Part of *Great Britain* called *England*, and for "other Purposes," as is to subject Carriages having the Fellies of the Wheels thereof of less Breadth or Guage than Six Inches to the Payment of Double Tolls, and for vacating Contracts for leasing Tolls;' and also an Act passed in the eighteenth year of his said late Majesty's reign, intituled 'An Act for enabling Trustees under particular Turnpike Acts to meet and carry such Acts into Execution, notwithstanding they may not have met or adjourned agreeable to the Directions of such Acts, and for preventing Disputes touching the Payment of Tolls for Horses or Carriages belonging to or employed by Officers or Soldiers on Duty;' and also an Act passed in the twenty-first year of his said late Majesty's reign, intituled 'An Act for declaring certain Provisions of an Act made in the Thirteenth Year of his present Majesty, relating to the Turnpike Roads in that Part of *Great Britain* called *England*, to extend to all Acts made and to be made for repairing Roads subsequent to the passing of the said Act;' and also an Act passed in the twenty-fifth year of his said late Majesty's reign, intituled 'An Act to exempt Carriages carrying the Mail from paying Tolls at any Turnpike Gate in *Great Britain*;' and also an Act passed in the fifty-second year of his said late Majesty's reign, intituled 'An Act to explain the Exemption from Toll in several Acts of Parliament, for Carriages employed in Husbandry, and for regulating the Tolls to be paid on other Carriages, and on Horses, in certain other Cases therein specified;' and also an Act passed in the fifty-third year of his said late Majesty's reign, intituled 'An Act to amend an Act made in the Fifty-second Year of his present Majesty's Reign, intituled "An Act to explain the Exemption from Toll in several Acts of "Parliament, for Carriages employed in Husbandry, and for regulating "the Tolls to be paid on other Carriages and on Horses, in certain other "Cases therein specified," and for other Purposes relating thereto;' and also an Act passed in the fifty-fifth year of his said late Majesty's reign, intituled 'An Act to enable the Trustees of Turnpike Roads to abate the Tolls on Carriages, and to allow of their carrying extra Weights in certain Cases;' and also an Act passed in the fifty-seventh year of his

16 G. 3. c. 39.
16 G. 3. c. 41.
17 G. 3. c. 16.
18 G. 3. c. 28.
18 G. 3. c. 63.
21 G. 3. c. 20.
25 G. 3. c. 57.
52 G. 3. c. 145.
53 G. 3. c. 82.
55 G. 3. c. 119.
57 G. 3. c. 37.

No. I.
3 Geo. IV. c. 126.

said late Majesty's reign, intituled 'An Act to explain and amend an Act of the fifty-third Year of his present Majesty, relating to Tolls on Carriages used in Husbandry, and to remove Doubts as to Exemption of Carriages not wholly laden with Manure from Payment of Toll;' shall be and the same is and are hereby repealed.

Not to revive repealed Acts;

II. Provided always, and be it enacted, That nothing herein contained shall extend or be construed to extend, so as to revive or give any force or effect to any Act or Acts repealed by the said recited Acts or any of them, but such Acts shall be and continue repealed, in such and the like manner as if this Act had not been made.

nor to prevent the Recovery of Penalties incurred for Offences against Acts repealed.

III. Provided always, and be it further enacted, That nothing herein contained shall extend or be deemed or construed to extend, to prevent the suing for and recovery of any penalty incurred by any offence committed against the provisions of the said hereinbefore recited Acts or any of them, previous to the repeal of the said Acts in and by this Act, or to prevent or defeat any prosecution commenced or to be brought for such offence, but all penalties incurred may be sued for, and all encroachments nuisances and other offences made or committed previous to the repeal of the said Acts, against the provisions of the said recited Acts or any of them, may be abated or prosecuted in the same manner to all intents and purposes as if this Act had not been passed.

After Jan. 1. 1823, this Act to extend to all Local Acts for making and repairing Turnpike Roads.

IV. And whereas it is of great importance that one uniform system should be adhered to in the laws for regulating the management and maintenance of turnpike roads throughout the kingdom; be it therefore enacted, That from and after the first day of *January* one thousand eight hundred and twenty-three, all the enactments provisions matters and things in this Act contained, shall extend and be deemed construed and taken to extend to all Acts of Parliament now in force and to all Acts which shall hereafter be passed, for making widening turning amending repairing or maintaining any turnpike road or roads in that part of *Great Britain* called *England*, save and except where any other commencement is particularly directed by this Act, and as to such enactments provisions matters and things as shall be expressly referred to and varied altered or repealed by any such Act or Acts as shall be hereafter passed.

After Jan. 1. 1826, all Wheels of Waggons and other Carriages to be of the Construction herein mentioned.

Penalty 5*l.* on the Owner, and 40*s.* on the Driver.

V. And be it further enacted, That from and after the first day of *January* one thousand eight hundred and twenty-six, if the tire or tires of any wheel or wheels of any waggon cart or other such carriage which shall be used or drawn on any turnpike road, shall not be so made or constructed as not to deviate more than half an inch from a flat or level surface in wheels exceeding six inches in breadth, or more than one quarter of an inch from a flat or level surface in wheels less than six inches in breadth, or in case the several nails of the tire or tires of every such wheel or wheels shall not be so countersunk as not to project above one quarter of an inch above the surface of such tire or tires, then and in every such case the owner of every such waggon cart or other such carriage, shall for every such offence forfeit and pay the sum of five pounds, and every driver thereof the sum of forty shillings.

Nor shall any Waggon or Cart be used with Wheels of less Breadth than three Inches on any Turnpike Road.

Penalty.

VI. And be it further enacted, That from and after the first day of *January* one thousand eight hundred and twenty-six, no waggon or other such carriage shall be allowed to travel or be used on any road with the fellies of the wheels thereof of a less breadth than three inches; and from and after the day and year last mentioned, if any waggon or other such carriage having the fellies of the wheels thereof of less breadth than three inches shall be used or drawn on any turnpike road, the owner of every such waggon or other such carriage so used shall for every such offence forfeit and pay any sum not exceeding five pounds, and every driver thereof not being the owner, any sum not exceeding forty shillings.

After Jan. 1. 1823, Wag-

VII. And be it further enacted, That from and after the said first day of *January* one thousand eight hundred and twenty-three, the trustees

gons, &c having the Fellies of Wheels of less Breadth than Four and a Half Inches, to pay One Half more than the Toll payable on Waggons, &c. having Six Inch Wheels.

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or commissioners appointed by virtue or under the authority of any Act or Acts of Parliament made or to be made for making or maintaining any turnpike road, shall and they are hereby required to demand and take or cause to be demanded and taken, for every waggon wain cart or other such carriage having the fellies of the wheels thereof of less breadth than four and a half inches at the bottom or soles thereof, or for the horse or horses or cattle drawing the same, one half more than the tolls which are or shall be payable for any carriage of the same description having the wheels thereof of the breadth of six inches · And for every waggon wain cart or other such carriage having the fellies of the wheels thereof of the breadth of four and a half inches, and less than six inches at the bottom or soles thereof, or for the horse or horses or other cattle drawing the same, one-fourth more than the tolls or duties which are or shall be payable on any carriage of the like description having the wheels thereof of the breadth of six inches, by any Act or Acts of Parliament now in force or hereafter to be passed, for making or maintaining any turnpike road, before any such waggon wain cart or other carriage respectively shall be permitted to pass through any turnpike gate or gates bar or bars where tolls shall be payable by virtue of any such Acts.

Where the Wheels shall be Four and a Half Inches, and less than Six Inches in Breadth, One-fourth more Toll shall be paid.

Where any Act now in force has a Scale of Tolls on Waggons, &c. with less than Six Inch Wheels, such Scale shall be continued.

VIII. Provided always, and be it further enacted, That where any particular Act or Acts of Parliament now in force for the making repairing or maintaining any turnpike road, shall direct an higher rate of toll or tolls to be taken on any waggon wain cart or other such carriage having the fellies of the wheels thereof of less breadth than six inches, and such higher rate is more than the addition which is hereinbefore directed to be taken, such higher rate of tolls in and by such Act or Acts imposed shall continue to be levied and collected on the road or roads to which the said Act or Acts relate in the proportions therein fixed

Where Waggons or Carts are constructed in a particular Manner, Trustees may make Order that the Toll to be taken shall not be less than Two-thirds of the full Toll.

IX. And be it further enacted, That where any waggon or cart shall have the sole or bottom of the wheels thereof rolling on a flat surface, and the nails of the tire of such wheels countersunk and be cylindrical (that is to say) of the same diameter on the inside next the carriage as on the outside, so that when such wheels shall be rolling on a flat or level surface the whole breadth thereof shall bear equally on such flat or level surface, and shall have the opposite ends of the axletrees of such waggon cart or other carriage, so far as the same shall be inserted into the respective naves of the wheels thereof, horizontal, and in the continuance of one straight line, without forming any angle with each other, and in each pair of wheels belonging to such carriage the lower parts when resting on the ground shall be at the same distance from each other as the upper parts of such wheels, it shall and may be lawful for the trustees or commissioners of any turnpike road, at a general meeting, if they shall think fit so to do, to make an order for every such waggon and cart to pass through any toll gate or bar under the superintendance of the trustees or commissioners making such order, upon paying only so much of the tolls and duties as shall not be less than two-thirds of the full toll or duty payable by any turnpike Act on such waggon cart or other carriage, and the horse or horses or cattle drawing the same.

Breadth of Wheels not to extend to Coaches, &c.

X. Provided always, and be it further enacted, That nothing herein contained relating to the breadth of the wheels of carriages, or to the tolls payable thereon, shall extend or be construed to extend to any chaise marine coach landau berlin barouche sociable chariot calash hearse break chaise curricle gig chair or taxed cart market cart or other cart for the conveyance of passengers or light goods or articles.

Power to Trustees to measure Wheels.

XI. And be it further enacted, That it shall and may be lawful for any trustee or commissioner of any turnpike road, and for every collector or his deputy or deputies or other person acting by or under the authority of the trustees or commissioners of any turnpike road or of their lessee or lessees of tolls, to measure and examine or cause to be measured and examined, the breadth and construction of the wheels of every waggon cart or other such carriage passing on such turnpike road, such measure-

ment and examination to take place if the trustee commissioner or other authorised persons making the same shall so require, previously to such waggon cart or other carriage being allowed to pass through any toll gate or bar at which toll shall be payable; and if any owner or driver of any such waggon cart or other carriage shall turn or drive out of the road in order to avoid or evade the measuring of the wheels of such waggon cart or other carriage, or if any such owner driver or any other person shall refuse to allow the wheels of any such waggon cart or other carriage to be measured and the construction thereof examined, or shall attempt to pass through any toll gate or bar before such measurement and examination shall be made (the same having been required) or shall in any way hinder or obstruct any such trustee or commissioner, or other authorised person in making such measurement and examination, every such owner driver or other person so misbehaving shall for every such offence forfeit and pay any sum not exceeding five pounds; and that it shall not be lawful for any such waggon cart or other carriage not permitted to be measured or examined as aforesaid, to pass along any turnpike road; and if any collector or his deputy or any other person appointed to collect the tolls shall allow the same to pass before such measurement and examination shall be made (the same having been required) every collector deputy or other person shall for every offence forfeit and pay any sum not exceeding five pounds.

Penalty on obstructing Measurement, not exceeding 5*l.*

Penalty on Toll Collector allowing Waggons to pass before Measurement, &c. not exceeding 5*l.*

XII. And for regulating the weights to be allowed to waggons wains carts and other carriages, be it further enacted, That the weights hereafter next specified shall be allowed to every waggon wain cart or other such carriage (that is to say) to every waggon wain or other four-wheeled carriage having the fellies of the wheels thereof of the breadth of nine inches at the bottom or soles thereof, together with the loading of such carriage, six ton ten hundred weight in summer, and six ton in winter; to every cart or other such two-wheeled carriage having the fellies of the wheels thereof of the like breadth, together with the loading of such carriage, three ton ten hundred weight in summer, and three ton in winter; to every waggon wain or other such four-wheeled carriage having the fellies of the wheels thereof of the breadth of six inches and less than nine inches at the bottom or soles thereof, together with the loading of such carriage, four ton fifteen hundred weight in summer, and four ton five hundred weight in winter; to every cart or other such two-wheeled carriage having the fellies of the wheels of the breadth last mentioned at the bottom or soles thereof, together with the loading of such last-mentioned carriage, three tons in summer, and two ton fifteen hundred weight in winter; to every waggon wain or other such four-wheeled carriage having the fellies of the wheels thereof of the breadth of four inches and a half and less than six inches at the bottom or soles thereof, together with the loading of such carriage, four ton five hundred weight in summer, and three ton fifteen hundred weight in winter; to every cart or other such two-wheeled carriage having the fellies of the wheels thereof of the breadth last mentioned at the bottom of the soles thereof, together with the loading of such carriage, two ton twelve hundred weight in summer, and two ton seven hundred weight in winter; to every waggon wain or other such four-wheeled carriage having the fellies of the wheels thereof of a less breadth than four inches and a half at the bottom or soles thereof, together with the loading of such carriage, three ton fifteen hundred weight in summer, and three ton five hundred weight in winter; to every cart or other such two-wheeled carriage having the fellies of the wheels thereof of the breadth last mentioned, together with the loading of such carriage, one ton fifteen hundred weight in summer, and one ton ten hundred weight in winter; and for the several purposes of this Act, it shall be deemed summer from the first day of *May* to the thirty-first day of *October*, both days inclusive, and winter from the first day of *November* to the thirtieth day of *April*, both days inclusive.

Regulating the Weights of Waggons, &c.

XIII. And be it further enacted, That to every caravan or other four-wheeled carriage used for the conveyance of goods, and built and con-

Additional Weights for Carriages built with Springs.

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structed with springs, shall be allowed the weights following: that is to say, for every such carriage three tons and fifteen hundred weight in winter, and four tons five hundred weight in summer.

Two-wheeled Drays drawn with Three Horses allowed Two Tons 16 Cwt.

XIV. Provided always, and be it further enacted, That to each and every dray with two wheels of not less than four inches and a half in breadth, and drawn by not more than three horses, and used in *London* or within the bills of mortality, there shall be allowed at all times of the year, together with the loading of such dray, the full weight of two ton sixteen hundred weight; any thing in this or any other Act of Parliament to the contrary notwithstanding.

Additional Tolls for Overweight.

XV. And be it further enacted, That it shall and may be lawful for all trustees and commissioners appointed by or under any Act or Acts of Parliament for the making or maintaining of any turnpike road, or for any person or persons authorised by them, and they are hereby empowered and required to receive take and demand over and above the tolls payable by any Act or Acts of Parliament now in force or hereafter to be passed, the following sums of money as additional toll for every hundred weight of one hundred and twelve pounds to the hundred, which any waggon cart or other such carriage, together with the loading thereof, shall weigh at any weighing engine over and above the weights hereinbefore allowed to each of them respectively (that is to say:) For the first and second hundred of such overweight, the sum of threepence for each hundred; for every hundred of such overweight above two hundred and not exceeding five hundred, the sum of sixpence; for every hundred of such overweight above five hundred and not exceeding ten hundred, the sum of two shillings and sixpence; and for every hundred of such overweight exceeding ten hundred, the sum of five shillings; which said additional sums or tolls hereby granted and made payable at any weighing engine shall and may be levied and recovered in any of the cases aforesaid in such manner as any other toll or duty payable on the road on which any such weighing engine shall be erected is or shall be by law to be levied and recovered, and the monies arising therefrom shall be applied to the repairs of the turnpike road on which the same shall be recovered.

Regulations as to Weight not to extend to Manure, &c.

XVI. Provided always, and be it further enacted, That the regulations of weight hereinbefore mentioned and provided shall not extend or be deemed or construed to extend to any waggons carts or other carriages carrying only manure or lime for the improvement of land or any hay straw fodder or corn unthrashed, except hay straw fodder or corn carried for sale; nor to any waggons carts or other carriages carrying only one tree or one log of timber or one block of stone or one cable or rope; nor shall the said regulations of weight extend to any chaise marine coach berlin barouche sociable chariot calash hearse break gig chaise or taxed cart.

Contractors of Tolls may be released from their Contracts, so far as regards Tolls or Penalties for Overweight, on giving Notice to the Treasurer or Clerk of the Trustees by September 1, 1822.

XVII. And whereas many persons may at the time of passing this Act be farmers or contractors for the tolls arising or payable on turnpike roads and for tolls and penalties for overweight, and whose contracts will not expire until after the first day of *January* one thousand eight hundred and twenty-three; for remedy whereof and for protection of such lessees or contractors, be it further enacted, That in case any lessee or lessees farmer or farmers contractor or contractors for any toll or tolls and penalties for overweight payable to any trustees or commissioners appointed by virtue of any Act of Parliament for making repairing or amending turnpike roads, whose contract will not expire until after the first day of *January* one thousand eight hundred and twenty-three, shall by reason of this Act be desirous of being discharged from his her or their contract or contracts, so far as regards such tolls or penalties for overweight, and of such his her or their desire shall on or before the first day of *September* one thousand eight hundred and twenty-two, give notice in writing to the treasurer or clerk of any such trustees, then and in every such case all such farmers lessees or contractors shall from and after the said first day of *January* one thousand eight hundred and twenty-three, be released and discharged from their respective contracts so far as the same relate to such tolls or penalties for overweight; and all and every such contracts shall from thence-

forth cease and be null and void as to the residue of the term or time then to come and unexpired therein, so far as such contracts relate to such tolls or penalties for overweight; any thing in such leases or agreements to the contrary notwithstanding.

New Contracts may be made with Contractors.

XVIII. Provided also, and be it enacted, That in case any such lessee or lessees farmer or farmers contractor or contractors shall give such notice of determining his her or their contract as hereinbefore mentioned, then and in every such case it shall be lawful for such trustees or commissioners, if they think fit, to make any new contract or contracts with such lessee or lessees farmer or farmers contractor or contractors or to make any compensation to him her or them in respect of such tolls or penalties for overweight or to cause the said tolls or penalties for overweight to be relet on a day and at a place to be by them appointed, of which one month's notice at least shall be given and thereupon to proceed to relet the same, and to relet the same for the best price they may then be enabled to obtain for the same without being compelled to put up the said tolls or penalties for overweight at the sum at which they were last let, or to have any other meeting for the letting thereof; any law or custom to the contrary notwithstanding.

Trustees not to make Composition for Overweight.

XIX. And be it enacted, That it shall not be lawful for the trustees or commissioners of any turnpike road their lessee or lessees collector or collectors or other officers to make any composition for any additional tolls or duties for or in respect of the overweight or in any other manner as to the weight which any waggon wain cart or carriage shall carry or weigh, any law to the contrary thereof notwithstanding; but every contract and agreement for such composition for overweight shall be null and void to all intents and purposes whatsoever; and every lessee collector or other officer entering into or agreeing to any such composition, and every person or persons with whom any such composition or agreement shall be made or entered into, shall for every such composition or agreement and for every abatement of toll for overweight in consequence thereof respectively, forfeit and pay the sum of fifty pounds to any person or persons suing for the same.

Penalty, 50*l.*

Penalty on unloading Goods, &c. to evade Toll, or obstructing the weighing, 5*l.* on the Owner of the Waggon, &c. and not exceeding 40*s.* on the Driver.

XX. And be it further enacted, That if any person or persons shall unload or cause to be unladen any goods wares or merchandize from any cart waggon or other carriage at or before the same shall come to any turnpike gate or weighing engine erected by virtue or in pursuance of this or any other Act made for the repair or preservation of any turnpike road, or shall load or lay upon such carriage after the same shall have passed any such turnpike or weighing engine any goods wares or merchandize taken or unladen from any horse cart or other carriages belonging to or hired or borrowed by the same waggoner or carrier in order to avoid the payment of the said respective duties payable for overweight; or if any person shall so unload in order to carry considerable quantities of goods through any turnpike gate or by any weighing engine in one and the same day and thereby pay less toll at such turnpike gate or weighing engine than would have been paid if such goods wares or merchandize had not been so unladen; or if any driver of any waggon or cart shall not wait a reasonable time whilst any other carriage shall be weighed which shall have come to the weighing engine before the carriage of which he shall be the driver; or if the driver of any waggon or cart shall refuse or delay to remove or drive any such waggon or cart from the weighing machine in order by such neglect or refusal to impede or delay the weighing of any other waggon or cart, or shall turn or drive out of any road in order to avoid or evade the weighing of any waggon or cart; each and every person so offending in any of the cases aforesaid and being thereof lawfully convicted before one or more justice or justices of the peace for the limit where the offence shall be committed upon the oath of one or more credible witness or witnesses, shall forfeit and pay the sum of five pounds, to be levied upon the goods and chattels of the owner of such cart waggon or other carriage; and each and every driver not being the owner of such waggon or carriage so offending and being thereof convicted as aforesaid shall forfeit and pay

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any sum not exceeding forty shillings, and in case of non-payment thereof shall be committed to the house of correction for any time not exceeding two calendar months.

Power given for erecting Weighing Machines.

XXI. And be it further enacted, That it shall and may be lawful for the said trustees or commissioners at any of their respective meetings, if they think proper, to order and cause to be built and erected at any of the turnpikes or toll gates on the roads under their care and management, or at such distance therefrom as they shall think expedient, one or more crane or cranes machines or engines with a suitable house or other building thereto proper for the weighing of waggons or carriages conveying any goods or merchandize whatsoever, and by notice on a board for that purpose to be put up at every such weighing machine, to order and direct all and every such waggons or carriages which shall come within one hundred yards of any crane machine or engine to be weighed together with the loading thereof.

Where Weighing Engines are erected, Toll Keepers to weigh Waggons, &c. of greater Weight than allowed, and not suffer them to pass without paying the additional Toll.

Penalty on obstructing the weighing not exceeding 5*l.*

XXII. And be it further enacted, That the keeper of every toll gate or bar where any weighing engine shall be erected or any other person appointed or to be appointed by the trustees or commissioners or by their lessee or lessees to the care of such weighing engine, shall and is hereby required to weigh all such waggons carts and other carriages liable to be weighed which shall pass loaded through such gates or bars respectively, and which he shall believe to carry greater weights than are allowed to pass without paving the said additional toll; and if any collector or person so appointed shall permit any such waggon cart or other carriage to pass by or through any such toll gate with greater weights than are hereby allowed without weighing the same and receiving such additional tolls as aforesaid, he shall for every such offence forfeit the sum of five pounds; and if the owner or driver of any waggon cart or other carriage shall refuse to allow the same to be weighed, or shall resist any gate keeper or toll collector in weighing the same, every owner or driver so offending shall forfeit and pay any sum not exceeding five pounds.

Trustees, &c. may cause Waggons, &c. to return to be weighed, in case of Neglect of Duty of the Collector.

XXIII. And in order to detect the said collector or receiver in any fraudulent contrivance or neglect of duty in the matters aforesaid, be it further enacted, That it shall and may be lawful for any trustee or commissioner or surveyor of every turnpike road, if he shall suspect any such connivance or neglect as aforesaid, to cause any waggon cart or other carriage which shall have passed through any toll gate where any weighing engine shall be erected and shall not have passed above three hundred yards beyond such toll gate to return to such weighing engine and be there weighed with the loading which passed through such toll gate in the presence of such trustee or commissioner or surveyor, upon requiring the driver thereof to drive such carriage back to such weighing engine, and upon paying or tendering to him the sum of one shilling for so doing, which sum of one shilling shall be returned to the person paying the same, if upon weighing such carriage and the loading thereof it shall be found above the weight hereby allowed.

Surveyors to make convenient Places for turning Carriages where Weighing Engines are erected.

Drivers refusing to return to forfeit not exceeding 5*l.*

XXIV. And for the better enforcing the authority of this Act, be it further enacted, That the surveyors of every turnpike road shall and they are hereby authorised and required to make convenient places for turning such carriages upon every such turnpike road where any weighing engine shall be erected within three hundred yards of such toll gate on each side thereof, if the ground will admit of the same; and if the driver of any such carriage being so requested to return with his carriage to such weighing engine shall neglect or refuse so to do he shall forfeit any sum not exceeding five pounds; and it shall and may be lawful for any peace officer or other person or persons being then present upon such neglect or refusal to drive and take such carriage back to such weighing engine in order to be weighed as aforesaid.

Where Turnpike Roads on different Trusts meet, Trustees to fix on some place for erecting a Weighing Engine, and proportion the Expence, &c.

XXV. Provided also, and be it further enacted, That when two or more turnpike roads meet at or near the same place it shall and may be lawful for the trustees or commissioners of such turnpike roads respec-

tively at a meeting to be held for that purpose to fix upon some convenient place to erect a weighing engine upon, which will accommodate all such turnpike roads, and by agreement amongst themselves at such meeting to proportion the expences which may attend the making erecting maintaining and keeping in repair such weighing engine and likewise the money arising from forfeitures to be incurred for overweight at such weighing machine amongst all such turnpike roads in such manner as to them shall appear just and reasonable.

Exemptions from Toll on Manure, &c. contained in any Act to be in force notwithstanding the same should be carried into or brought from an adjoining Parish.

XXVI. And be it further enacted, That in every case in which under any Act or Acts of Parliaments relating to any turnpike road there is an exemption from toll or duty in respect of any horse mule ass ox waggon cart or other carriage drawing or carrying any dung mould marl or compost of any nature or kind soever for improving or manuring the land, or hay straw or any other fodder for cattle, or materials for repairing any turnpike road or highway, such exemption shalt be deemed to extend in respect of every such waggon cart or other carriage and also in respect to the cattle drawing the same going empty or loaded only with implements necessary for more convenient carriage, or loading or unloading such lading, or returning empty or with such implements as aforesaid, having been so laden, notwithstanding the said waggon cart or other carriage shall for the purpose aforesaid go to or return from any parish or place in which the said turnpike does not lie.

Tolls payable on Waggons going empty for Road Materials, &c. to be repaid when returning laden.

XXVII Provided always, and be it further enacted, That for the preventing of frauds on toll collectors by waggons carts or other carriages passing empty or loaded only with implements necessary for the more convenient carriage of or for loading or unloading manure, or materials for the repair of any turnpike road or highway through turnpike gates under pretence of going for such manure or materials the owner or driver of every such empty waggon cart or carriage claiming the same exemptions, or any of them, shall in all cases pay the toll in respect of such waggon cart or other carriage before the same shall be permitted to pass through such turnpike gate; and the collector of such toll shall thereupon deliver to such owner or driver a ticket to be marked "Manure Exemption" or "Road Materials" (as the case may be) with the name of the gate and the date when delivered and the amount of the toll so paid; all which sum or sums so paid shall be repaid to the owner or driver of such waggon cart or other carriage upon his or their returning with such waggon cart or other carriage so laden as aforesaid, and producing such ticket; and every collector of such toll refusing to give such ticket on receiving the toll, or refusing or neglecting to return the same toll upon the return of such waggon cart or other carriage so laden, and re-delivery of the "Manure Exemption" or "Road Materials" ticket, as the case may be, shall for every such offence forfeit and pay to the owner of such waggon cart or other carriage a penalty of not more than five pounds upon conviction thereof before one or more justice or justices of the peace for the county riding division or place where such offence shall be committed upon the oath of one or more credible witness or witnesses.

Penalty for not returning such Tolls, not exceeding 5*l.*

Toll not to be taken on account of Baskets, &c. being in Waggons, &c. laden with Manure, &c.

XXVIII. And be it further enacted, That the owner or driver of any waggon cart or other carriage laden with manure for land or materials for any turnpike road or highway passing through any turnpike gate or otherwise passing on or across any turnpike road shall not be liable to pay any toll, nor shall any toll be demanded for such carriage so laden or the cattle drawing the same, by reason only of any basket or baskets empty sack or sacks or spade shovel or fork necessary for loading or unloading such manure or materials being in or upon any such waggon cart or other carriage in addition to such manure or materials, if the loading thereof is substantially manure for land or materials for the repair of any turnpike road or highway as aforesaid; any thing in any Act contained to the contrary thereof notwithstanding.

Post Horses having passed through any Gate may return Toll-free before Nine in the Morning of the following Day.

XXIX. And be it further enacted, That all horses travelling for hire under the post horse duties Acts, having passed through any turnpike

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gate erected or to be erected on any turnpike road, drawing any carriage in respect of which any toll shall have been paid, on returning through the turnpike gate at which the toll shall have been paid, and the other gates (if any) cleared by such payment, either without such carriage or drawing such carriage, the same being empty and without a Ticket denoting a fresh hiring, shall be permitted to repass toll-free, although such horses or carriage shall not have passed through such turnpike gate on the same day; provided that such horses so travelling shall return before nine of the clock of the morning succeeding the day on which they first passed the turnpike gate at which the toll shall have been paid.

Horses having passed through a Gate, and returning drawing a Carriage, the Toll paid on the Horses to be deducted.

XXX. And be it further enacted, That where any horse or horses shall pass through any turnpike gate on any road not drawing any carriage, and a toll shall be paid on such horse or horses at such turnpike gate, and the same horse or horses shall return drawing any carriage on the same day or within eight hours after their first passing through such gate, the toll paid on such horse or horses on their originally passing shall be deducted from the toll payable on the same when drawing the carriage to which they shall be attached on their return, so that no higher toll shall in the whole be taken than if such horse or horses had in the first place passed through such turnpike gate drawing the said carriage.

Tolls to be paid upon Carriages affixed to others.

XXXI. And whereas coaches chariots chaises chairs carts and other carriages sometimes pass through turnpike gates affixed tied or secured to waggons or carts, and horses are sometimes sent under the charge of the drivers of such waggons and carts, and are fastened thereto; and it is expedient to determine what tolls such coaches chariots chaises chairs carts and other carriages and horses ought to pay on passing through such gates; be it therefore enacted, That where by any Act for repairing any turnpike road no toll is directed to be taken for or in respect of any coach chariot chaise or any other carriage whatsoever with four wheels passing through any turnpike gate on such road affixed tied or secured to any waggon or cart, the same toll and no more shall and may be demanded and taken for and in respect of such coach chariot chaise or other carriage, as if the same had passed through drawn by two horses; and where by any Act for repairing any turnpike road no toll is directed to be taken for or in respect of any chair cart or other carriage whatsoever with two wheels only, passing through any turnpike gate on such road so affixed tied or secured to any waggon or cart as aforesaid, the same toll and no more shall and may be demanded and taken for and in respect of such chair cart or other carriage with two wheels only, as if the same had passed through drawn by one horse only; and where any horse shall be fastened to but not used in drawing any waggon cart or other carriage, such horse shall not be liable to a higher toll than a single horse; provided that if any coach chariot chaise chair cart or other carriage so affixed tied or secured to any waggon or cart, shall have any goods conveyed therein other than the harness thereto belonging, and such articles of package as may be necessary for the protection of such carriages, the same shall be liable to double the toll hereby imposed.

Exemptions from Tolls:

Horses and Carriages attending His Majesty, &c. or conveying Materials for Roads and Bridges;

XXXII. And be it further enacted, That no toll shall be demanded or taken by virtue of this or any other Act or Acts of Parliament on any turnpike road, for any horses or carriages attending his Majesty or any of the Royal Family, or returning therefrom; or of or from any person or persons for any horse or horses or other beast or cattle, or for any waggon wain cart or other carriage employed in carrying or conveying or going empty to fetch carry or convey, or returning empty from carrying or conveying, having been employed only in carrying or conveying on the same day any stones bricks timber wood gravel or other materials for making or repairing any turnpike road or public highway, or for building rebuilding or repairing any present or any future bridge or bridges on any such road or public highway, or of or from the surveyor of any turnpike road when engaged in executing or proceeding to execute within the limits of his own or any adjoining trust, the powers of this or any other Act or Acts of Parliament for repairing maintaining or relating to

any turnpike road; or for any horse beast or other cattle or carriage employed in carrying or conveying, having been employed only in carrying or conveying on the same day any dung soil compost or manure (save and except lime) for improving lands or any ploughs harrows or implements of husbandry (unless laden also with some other thing not hereby exempted from toll,) or any hay straw fodder for cattle and corn in the straw, which has grown or arisen on land or ground in the occupation of the owner of any such hay straw fodder or corn in the straw potatoes or other agricultural produce, and which has not been bought sold or disposed of nor is going to be sold or disposed of, or for any horses or other beasts employed in husbandry going to or returning from plough or harrow or to or from pasture or watering place or going to be or returning from being shoed or farried, such horses or other beasts not going or returning on those occasions more than two miles on the turnpike road on which the exemption shall be claimed; or of or from any person or persons going to or returning from his her or their proper parochial church or chapel, or of or from any other person or persons going to or returning from his her or their usual place of religious worship tolerated by law on *Sundays*, or on any day on which divine service is by authority ordered to be celebrated; or of or from any inhabitant of any parish township or place going to or returning from attending the funeral of any person who shall die and be buried in the parish township or hamlet in which any turnpike road shall lie; or from any rector vicar or curate going to or returning from visiting any sick parishioner, or on other his parochial duty within his parish; or for horses carts or waggons employed only in carrying or conveying any vagrant sent by a legal pass, or any prisoner sent by any legal warrant or returning empty after having been so employed; or for any horses or carriages of whatever description employed or to be employed in conveying the mails of letters and expresses under the authority of his Majesty's post master general, either when employed in conveying fetching or guarding such mails or expresses, or in returning back from conveying or guarding the same; or for the horse or horses of any officers or soldiers on their march or on duty, or for any horse or horses or other beast or any cart carriage or waggon employed in carrying or conveying or returning empty from carrying or conveying, having been employed only in carrying or conveying the arms or baggage of any such officers or soldiers, or employed in carrying or conveying or returning empty from having been employed only in carrying or conveying any sick wounded or disabled officers or soldiers; or for any waggon wain cart or other carriage whatsoever or the horse or horses or other cattle drawing the same, employed in conveying any ordnance or barrack or commissariat or other public stores of or belonging to his Majesty, or for the use of his Majesty's forces, or returning empty from having been so employed; or for any carriage conveying volunteer infantry, or for any horse furnished by or for any person belonging to any corps of yeomanry or volunteer cavalry or infantry, and rode by him in going to or returning from any place appointed for and on the days of exercise inspection or review, or on other public duty, provided that such person shall be dressed in the uniform of his corps, and shall have his arms furniture and accoutrements according to the regulations of such corps at the time of claiming the exemption; or for any horses or carriages carrying or conveying any person or persons to or from any election or elections of a knight or knights of the shire to serve in Parliament for the county or counties in which such turnpike road shall be situated; or for any horses or carriages which shall only cross any turnpike road, or shall not pass above one hundred yards thereon.

or Manure (except Lime);
or Agricultural Produce not sold or for Sale;
or for Horses employed in Husbandry, &c.;
or for going to or returning from Church;
or for attending Funerals;
or from Ministers attending their Duty;
or for conveying Vagrants;
or for conveying the Mails;
or for Horses of Officers or Soldiers on Duty;
or for conveying Baggage, or any Sick, Ordnance, or Public Stores;
or for Horses and Carriages used by Corps of Yeomanry, &c.;
or for conveying Persons to or from County Elections; or for crossing Roads, &c.

XXXIII. Provided always, and be it enacted, That so much of this Act as directs that no toll shall be demanded or taken from any person or persons going to or returning from his her or their proper parochial church or chapel, or of or from any other person or persons going to or returning from his her or their usual place of religious worship tolerated

Exemption from Toll on Sundays, &c. for Persons going to and returning from Church not to extend to any Turnpike within the Distance of Five Miles of London, &c.

No. I.
3 Geo. IV.
c. 126.

by law, on *Sundays*, or on any day on which divine service is ordered by authority to be celebrated, shall not extend or be construed to extend so as to exempt any such person or persons from the payment of toll at any turnpike gate or gates situate within the distance of five miles of the *Royal Exchange* in the city of *London*, or within the distance of five miles of *Westminster Hall* in the city and liberties of *Westminster*.

Not to exempt from Toll any Waggon, &c. laden with Manure, if imposed by any local Act.

XXXIV. Provided also, and be it enacted, That nothing herein contained shall extend or be construed to extend, so as to exempt any waggon cart or other carriage laden with dung soil compost or manure for manuring land, or any horse or other beast drawing the same from any toll imposed in respect thereof by virtue of any local Act or Acts now passed, whereby such toll has been imposed for the maintenance of the roads therein respectively mentioned.

Exempting Carriages conveying King's Stores, &c. from Penalties for Overweight.

XXXV. And be it further enacted, That no person owning or driving or causing to be driven any waggon wain cart or other carriage provided for the service of his Majesty's forces, or conveying any ordnance or barrack or commissariat or other public stores of or belonging to his Majesty or for the use of his Majesty's forces, shall be subject to any additional toll penalty or forfeiture for overweight; nor shall any such waggon wain cart or other carriage or the horse or horses drawing the same, while so employed be stopped or detained by reason of any weight in any such waggon wain cart or other carriage, or of being drawn by any number of horses or oxen; but it shall be lawful for the owner or driver of any such waggon wain cart or other carriage, to put any number of horses or oxen to such waggon wain cart or other carriage; any thing in any Act or Acts of Parliament relating to highways or turnpike roads, or in this Act contained to the contrary notwithstanding.

Penalty not exceeding 5*l.* on fraudulently taking the Benefit of Exemption.

XXXVI. And be it further enacted, That if any person or persons shall by any fraudulent or collusive means whatsoever claim or take the benefit of any exemption from toll or from overweight, or for using any additional horse or horses or of any other exemption or exemptions whatsoever in this Act contained, every such person shall for every such offence forfeit and pay any sum not exceeding five pounds; and in all cases the proof of exemption shall be upon the person claiming the same.

Trustees to put up a Table of the Tolls.

XXXVII. And be it further enacted, That on or before the first day of *January* one thousand eight hundred and twenty-three, the trustees and commissioners of every turnpike road shall, and they are hereby required to put up or cause to be put up and afterwards to be continued at every toll gate within their respective districts, a table painted in distinct and legible black letters on a board with a white ground, containing at the top thereof the name of the gate at which the same shall be put up, and also a list of all the tolls payable at every such gate, distinguishing the several tolls and the different sorts of carriages for which they are to be paid, where there shall be any variation therein, and also a list of the several gates which shall be wholly or partially cleared by the payment of toll at the toll gate or bar where such table of tolls shall be affixed; and the said trustees or commissioners shall also provide tickets denoting the payment of toll, and on such several tickets shall be named and specified the name of the gate at which the same respectively shall be delivered, and also the names of the several gates freed by such payment, one of which tickets shall be delivered *gratis* to the person paying the toll; and on the production of such ticket at any gate or gates therein mentioned as being cleared as aforesaid by the payment of the toll at the gate where such ticket was delivered, the person producing the same shall pass through the gate or gates therein mentioned, without paying any further or additional toll.

Tickets denoting Payment of Toll to be provided and delivered to the Persons paying the Toll.

Two Oxen to be considered as One Horse.

XXXVIII. And be it further enacted, That in all carriages wherein oxen or neat cattle shall be used, two oxen or neat cattle shall be considered as one horse, for all the purposes mentioned in this Act or any particular turnpike Act with respect to tolls or other things.

For Recovery of Tolls.

XXXIX. And be it further enacted, That if any person subject or liable to the payment of any of the toll or tolls under and by virtue of this or any other Act of Parliament for making repairing or maintain-

ing any turnpike road, shall after demand thereof made neglect or refuse to pay the same or any part or parts thereof, it shall be lawful for the person or persons authorised or appointed to collect such tolls by himself or themselves, or taking such assistance as he or they shall think necessary to seize and distrain any horse beast cattle carriage or other thing upon or in respect of which any such toll is imposed, together with their respective bridles saddles gears harness or accoutrements, (except the bridle or reins of any horse or other beast separate from the horse or beast), or any carriage in respect of the horses or cattle drawing the carriage on which such toll is imposed, or any of the goods or chattels of the person or persons so neglecting or refusing to pay; and if the toll or any part thereof so neglected or refused to be paid and the reasonable charges of such seizure and distress shall not be paid within the space of four days next after such seizure and distress made, the person or persons so seizing and distraining may sell the horse beast cattle carriages or things so seized and distrained, or a sufficient part thereof, returning the overplus of the money to arise by such sale (if any) and what shall remain unsold upon demand to the owner thereof, after such tolls and the reasonable charges occasioned by such seizure distress and sale shall be deducted.

Collector may distrain.

If Toll and Charges be not paid in Four Days, Distress may be sold.

XL. And be it further enacted, That if any dispute shall happen or arise about the amount of the tolls due or the charges of making keeping or selling any distress made for non payment of any tolls, it shall be lawful for the collector or the person distraining to retain such distress or the money arising from the sale thereof (as the case may be), until the amount of the tolls due and the charges of the making keeping and selling the distress be ascertained by some justice of the peace for the county division or place wherein the turnpike or toll gate at which the toll in dispute shall be payable shall or may be situate, who, upon application made to him for that purpose, shall examine the matter on the oath of the parties or other witness or witnesses (which oath such justice is hereby authorised and empowered to administer), and shall determine the amount of the tolls due and shall award such costs and charges to either party as to the said justice shall appear right and proper; all which costs and charges shall and may be levied and recovered in case of non-payment thereof forthwith by distress and sale of the goods and chattels of the person or persons so awarded or directed to pay the same by warrant under the hand and seal of such justice, rendering the overplus (if any) upon demand, after deducting the costs and charges of making such distress and sale, to the person or persons whose goods and chattels shall have been so distrained and sold.

Any Justice may settle Disputes concerning Tolls.

XLI. And be it further enacted, That if any person shall with any horse cattle beast or carriage go off or pass from any turnpike road through or over any land or ground near or adjoining thereto, (not being a public highway, and such person not being the owner or occupier or servant or one of the family of the owner or occupier of such land or ground) with intent to evade the payment of the tolls granted by any Act of Parliament; or if any owner or occupier of any such land or ground shall knowingly or willingly permit or suffer any person, (except as aforesaid), with any horse cattle beast or carriage whatsoever to go or pass through or over such land or ground with intent to evade any such tolls; or if any person shall give or receive from any person other than the collectors of the tolls, or forge counterfeit or alter any note or ticket directed to be given with intent to evade the payment of the tolls or any part thereof; or if any person shall fraudulently or forcibly pass through any such toll gate with any horse cattle beast or carriage; or shall leave upon the said road any horse cattle beast or carriage whatsoever, by reason whereof the payment of any tolls or duties shall be avoided or lessened; or shall take off or cause to be taken off any horse or other beast or cattle from any carriage either before or after having passed through any toll gate, or having passed through any toll gate shall afterwards add or put any horse or other beast to any such carriage, and draw therewith upon any part of any turnpike road, so as to increase the

Penalty not exceeding 5*l.* for evading Tolls.

No. I.
3 Geo. IV.
c. 126.

number of horses or other beasts drawing the said carriage after the same shall have passed through any toll gate, whereby the payment of all or any of the tolls shall or may be evaded; or if any person shall do any other Act whatever in order or with intent to evade the payment of all or any of the tolls and whereby the same shall be evaded, every such person shall for every such offence forfeit and pay any sum not exceeding five pounds.*

Trustees may compound for Tolls, for a Term not exceeding Three Years.

XLII. And be it further enacted, That it shall and may be lawful for the trustees or commissioners of any turnpike roads from time to time, as they shall see convenient, to compound and agree for any term not exceeding three years at any one time, with all or any of the inhabitants of the several parishes hamlets or places to or through which such road may lead or pass, for the passing of their horses cattle or carriages through all or any of the toll gates to be erected on such road or on the sides thereof; which composition shall be paid yearly in advance, and in default thereof the composition or agreement with the person or persons making such default shall thenceforth be void; and all such composition money shall be paid and applied in such manner as the tolls are directed to be paid and applied: Provided always, that no such composition shall extend to the additional tolls for overweight hereinbefore directed to be taken; but all such additional tolls shall be demanded and recovered notwithstanding any composition for tolls.

Such Composition not to extend to Overweight.

Trustees may reduce Tolls; and afterwards advance them.

XLIII. And be it further enacted, That it shall and may be lawful for the trustees or commissioners appointed in and by virtue of any Act of Parliament for the repairing and amending any turnpike roads in case no power or effectual power should be given to them under the Act by which they are appointed, and they are hereby empowered at a meeting to be held for that purpose (of which one calendar month's notice shall be given in writing to be affixed on all turnpike gates which shall be then erected upon such roads, and in some public newspaper circulated in that part of the country) from time to time to lessen and reduce all or any of the tolls granted by any of the said respective Acts for and during such time as the said trustees or commissioners shall think proper; and afterwards at any meeting to be held as aforesaid from time to time, as they shall see occasion, to advance all or any of the tolls so lessened to any sum or sums of money not exceeding the several rates granted by such Acts of Parliament and this Act respectively: Provided nevertheless, That where the whole money borrowed on the credit of the tolls granted by any such Act shall not have been paid and discharged, no such tolls shall be lessened or reduced without the consent of the person or persons entitled to five-sixths of the money remaining due upon such respective tolls.

Reduction not to be made without Consent of Creditors in certain Cases.

Reduction or Advance of Tolls to be made proportionably.

XLIV. Provided also, and be it further enacted, That in all cases where the trustees or commissioners of any turnpike road shall reduce or advance the tolls on the road or roads for which they shall act, such reduction or advance shall be made as to waggons carts and other carriages the breadth of the wheels whereof is regulated by this Act, with reference to the proportion or scale of tolls payable on such waggons carts or other carriages according to the breadth of the wheels thereof; (that is to say) the trustees or commissioners making the reduction or advance shall reduce or advance the toll payable on waggons carts or other such carriages having the fellies of the wheels thereof of the breadth of six inches and shall then take and demand double or other proportions (as the case may be) of such reduced or advanced tolls on waggons carts or other carriages having the fellies of the wheels thereof of a greater or less breadth than six inches; and the reduction or advance of the proportion of toll to be payable by this or any other Act of Parliament in respect of the breadth of wheels or any other reduction or advance of tolls to be made in any other way than in manner aforesaid shall be null and void to all intents and purposes whatsoever.

Restriction as to the erecting Toll Gates on the Sides of Turnpike Roads.

XLV. And be it further enacted, That no toll gate shall hereafter be erected on the side of any turnpike road, unless the same be ordered by

the trustees or commissioners at a meeting of which fourteen days' public notice shall have been given in writing affixed upon all the toll gates erected on such road within ten miles of the place where such intended gate is to be erected, and within the trust for erecting the same, and also in some public newspaper circulated in that part of the country specifying the place where such toll gate is proposed to be erected, and unless five trustees or commissioners at least shall sign the said order at such meeting.

If Trustees cause Gates to be erected contrary to any Act of Parliament, Justices may order them to be removed.

XLVI. And be it enacted, That if the trustees or commissioners appointed to put any Act of Parliament made for the repair of any turnpike road into execution shall exceed their power by erecting or continuing any gate or gates turnpike or turnpikes where they have not any power by virtue of any Act of Parliament to erect such gate or gates turnpike or turnpikes, it shall and may be lawful for the justices of the peace for the limit where any such gate or gates turnpike or turnpikes is or shall be erected or continued in their general quarter session assembled, upon complaint of such excess of power in such trustees in a summary way to hear and determine whether such power has been exceeded, and if such power has been exceeded to order the sheriff of the county, who is hereby authorised and required to execute such order, to remove any such gate or gates turnpike or turnpikes.

Mortgagees in Possession of the Tolls to account to the Trustees.

XLVII. And be it enacted, That all and every mortgagee and mortgagees that hath or have taken or been in possession or shall hereafter take or be in possession of any toll gate or bar set up or erected on any turnpike road, or of any lands or tenements the rents and profits whereof are appropriated to the repairs of any part of any turnpike road, shall, within twenty-one days after he she or they shall have received notice in writing from the trustees or commissioners of such turnpike road, render an exact account in writing to such trustees or commissioners, or to such person as they shall appoint, of all monies received by such mortgagee or mortgagees or by any other person or persons for his her or their use and benefit, or by his her or their authority at such toll gate or bar or otherwise and what he she or they have expended in keeping or repairing the same; and in case he she or they shall neglect to render such account when required as aforesaid, he she or they shall severally forfeit and pay to the said trustees or commissioners for every refusal neglect or omission the sum of fifty pounds to be applied to the use of the road on which such toll gate or bar shall be erected.

Penalty 50*l.*

If Mortgagee keeps Possession after he has received the Money due, he shall forfeit Double the Sum and Treble Costs.

XLVIII. And be it further enacted, That if any such mortgagee or mortgagees shall keep possession of any toll gate or bar by him her or themselves, or by any other person or persons on his her or their behalf, and receive the tolls or duties thereat, or of any such rents and profits as aforesaid after such mortgagee or mortgagees shall have received the full sum or sums of money due on their respective mortgagee or mortgagees, and the interest thereof with costs, such mortgagee or mortgagees shall forfeit and pay as a penalty to the trustees or commissioners double the sum or sums of money he she or they shall have received over and above the sum or sums of money due as aforesaid, with treble costs of suit, to be recovered by the treasurer or clerk to such trustees or commissioners by action of debt bill plaint or information in any of his Majesty's courts of record which when recovered shall be applied to the use of the respective road or roads on which such toll gate or bar shall be placed or such rents appropriated.

An Action of Ejectment may be supported by one Mortgagee:

XLIX. And be it further enacted, That if any mortgagee or mortgagees of any tolls toll gates bars chains toll houses and buildings on any turnpike road shall seek to obtain the possession of the said toll gates bars chains toll houses and buildings in order to pay himself herself or themselves the principal money and interest or any part thereof due to him her or them, it shall be competent for him her or them as lessor or lessors of the plaintiff and upon his her or their demise only and without uniting in such demise the other mortgagees of the said tolls and premises to obtain such possession; but such person or persons who shall obtain the possession thereof shall not apply the tolls which may

But the Tolls shall be applied for the Benefit of all the Trustees.

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3 Geo. IV. c. 126.

consequently be received by him her or them to his her or their own exclusive use and benefit, but to and for the use and benefit of all the mortgagees of the said premises, *pari passu*, and in proportion to the several sums which may be due to them as such mortgagees.

On Death of Collector, Trustees or Commissioners may nominate another till next Meeting.

L. And be it further enacted, That it shall and may be lawful for any two or more trustees or commissioners of any turnpike road, upon the death of any collector appointed to collect the tolls upon such turnpike road, to nominate and appoint some other fit person in his place until the next meeting of the trustees or commissioners of such road, which person so to be nominated and appointed shall have the like power and authority and be accountable in the same manner in all respects as the person so dying had or would have been if living; and that if any toll collector or deputy collector who shall be discharged from his office by the trustees or commissioners authorised for that purpose, shall refuse to deliver up the possession of the house buildings and appurtenances which he enjoyed in right of his appointment to that office, within two days after notice of his discharge shall be given to him, or left at his house; or if the wife or family of any such toll collector or deputy who shall die as aforesaid, shall refuse to deliver up the possession of such house building and appurtenances within four days after such new appointment shall be made as aforesaid, then and in either of the said cases it shall and may be lawful for any justice of the peace for the county where such turnpike house shall be by warrant under his hand and seal, to order a constable or other peace officer, with such assistance as shall be necessary, to enter such house and premises in the day-time and to remove the persons who shall be found therein, together with their goods out of such house, and to put the new-appointed officer into the possession thereof.

If Collector, &c. refuse to deliver Possession of the House, &c. Justices may remove them.

No Person to gain a Settlement by renting Tolls or Residence in Toll Houses.

LI. And be it further enacted, That no collector or person renting such tolls or residing in such toll house as aforesaid, and no apprentice or servant of any such collector or person shall thereby gain a settlement in any parish or place whatsoevever; and that no tolls to be taken at any gate erected or to be erected by the trustees or commissioners of any turnpike road, nor toll house erected or to be erected for the purpose of collecting the same, nor any person in respect of such tolls or toll house shall be rated or assessed towards the payment of any poor's rates or any other public or parochial levy whatsoever.

Collectors permitting Carriages to pass otherwise than allowed by the Act, and not prosecuting, to forfeit not exceeding 5*l.*

LII. And be it further enacted, That if any collector or other person appointed to collect the tolls on any turnpike road shall permit or suffer any waggon wain cart or other carriage to be drawn or pass upon any turnpike road within the view or with the knowledge of such collector or toll gatherer, or to pass through any toll gate or bar with wheels of a less breadth or of a different construction or drawn with a greater number of horses than by this Act allowed, or without such names and descriptions painted thereon as are hereinafter directed, and shall not within the space of one week proceed for the recovery of the forfeiture or penalty hereby inflicted, or shall allow any coach chariot waggon cart or other carriage or any passenger to pass through any toll gate at which such collector or other person shall be stationed without paying the toll payable or shall be guilty of any other misconduct in his office, every collector or other person so offending and being thereof convicted before one justice shall forfeit for every such offence any sum not exceeding five pounds, as the justice by and before whom such offender shall be convicted shall judge proper.

Toll Collectors to put up their Names on a Board.

LIII. And be it further enacted, That every toll collector on every turnpike road shall place or cause to be placed on some conspicuous parts of the fronts of the several toll houses at which they shall be respectively stationed and so that the same shall appear to public view, their christian and surnames painted in black on a board with a white ground, each of such letters of such name or names to be at least two inches in length and of a breadth in proportion; and that such board shall be and remain at such toll house during the whole of the time that the person whose name shall be expressed thereon shall be on duty thereat; and every

A Board shall also be placed on the Front of the Toll House containing a List of the Tolls payable.

such collector shall place or cause to be placed on the front of the toll house or toll houses at which such collectors shall be stationed the board hereinbefore directed to be provided by the trustees or commissioners, containing the usual name of the turnpike gate where the board shall be affixed, and also the list of the tolls payable at such gate and of the several gates cleared by the payment of toll at the gate where such collector or collectors shall be stationed as aforesaid, and if any collector of the said tolls shall not place such boards respectively as aforesaid and keep the same there during the time he shall be such collector as aforesaid, or shall demand and take a greater or less toll from any person than he shall be authorised to do by virtue of the powers of any Act or of the orders and resolutions of the trustees or commissioners made in pursuance thereof, or shall demand and take a toll from any person or persons who shall be exempt from the payment thereof, and who shall claim such exemption, or shall refuse to permit or suffer any person or persons to read, or shall in anywise hinder any person or persons from reading the inscriptions on such boards respectively, or shall refuse to tell his christian and surname to any person or persons who shall demand the same on being paid the said tolls, or any of them, or shall in answer to such demand give a false name or names, or shall refuse or omit to give to the person paying the toll a ticket denoting the payment of the tolls and naming and specifying the toll gate at which such ticket has been delivered and the toll gate or toll gates (if any) freed by such payment, or upon the legal toll being paid or tendered shall unnecessarily detain or wilfully obstruct hinder or prevent any passenger or passengers from passing through any turnpike or toll gate, or shall make use of any scurrilous or abusive language to any trustee or commissioner traveller or passenger, then and in every such case every such toll collector shall forfeit and pay any sum not exceeding five pounds for every such offence.

Collector neglecting to do so, or taking a greater or less toll than what is authorised, or refusing a Ticket on Payment of Toll, or obstructing Passengers, to forfeit not exceeding 5*l.*

LIV Provided always, and be it enacted, That in case any toll collector or person acting as such shall offend against any of the provisions of this Act whereby any penalty shall be incurred and shall abscond or absent himself so as not to be found, then it shall and may be lawful for any justice of the peace before whom any such toll collector or person shall have been convicted of any such offence, in case of such collector or other person absconding after conviction, or in case of his or her absconding previous to conviction, then for any other justice of the peace acting for the county on an examination of the circumstances and ascertaining by the examination of witnesses that such offence has been committed by the person absconding, to order and adjudge that the penalty incurred as aforesaid shall be paid by the lessee or farmer of the tolls under whom such collector or other person shall act; all which penalties shall be levied and recovered from such lessee or farmer and applied in manner hereinafter directed

If toll Collectors abscond, Penalties to be levied on Lessees of Tolls

LV And be it further enacted, That it shall and may be lawful for the trustees or commissioners of every turnpike road, at a public meeting to let to farm the tolls of the several gates erected upon their respective turnpike roads in the manner hereinafter mentioned, although no express power shall have been given by any Act or Acts for that purpose; and that whenever any tolls shall hereafter be let to farm by virtue of the powers given by this or any other Act or Acts of Parliament, the following directions shall be observed; (that is to say) the trustees or commissioners shall cause notice to be given of the time and place for letting the same, at least one month before the day to be appointed for that purpose by affixing the same upon every toll gate belonging to such turnpike road, and also by insertion thereof in some public newspaper circulated in that part of the country, and specifying in every such notice the sum which the said tolls produced in the preceding year, clear of the salary for collecting the same in case any hired collector was appointed, and that they will let such tolls by auction to the best bidder on his producing sufficient sureties for payment of the money monthly or otherwise (as in such notice shall be specified), and that they will be put up at the sum which they were let for or produced

Powers for Trustees or Commissioners to farm out the Tolls.

Notice to be given for letting the Tolls.

Tolls to be put up at the Sum produced the preceding Year.

No. I.
3 Geo. IV. c. 126.

Mode of receiving Biddings.

in the preceding year, clear of the salary of the collector; and to prevent fraud or any undue preference in the letting thereof, the trustees or commissioners are hereby required to provide a glass with so much sand in it as will run from one end of it to the other in one minute, which glass at the time of letting such tolls shall be set upon a table, and immediately after every bidding the glass shall be turned, and as soon as the sand is run out it shall be turned again, and so for three times unless some other bidding intervenes, and if no other person shall bid until the sand shall have run through the glass three times the last bidder shall be the farmer or renter of the said tolls, and shall forthwith enter into a proper agreement for the taking thereof and paying the money at the times specified in such notice, with such surety or sureties for payment thereof and under such conditions and in such manner as the said trustees or commissioners shall think fit; and if the person being the last bidder shall not forthwith enter into such agreement, it shall and may be lawful to put up the said tolls again immediately for another bidder, and in like manner to continue putting up the same until a bidder shall be found who shall enter into such agreement; and in case no bidder shall offer or in case the same shall not be let at such auction, it shall be lawful for the said trustees or commissioners to accept a private tender for the same, and to demise or let to farm or agree to demise or let to farm all or any of such tolls, at any sum not less than the sum at or for which they shall then have been last let; or the said trustees or commissioners may appoint a collector of such tolls or fix some future day for the letting thereof, as they shall judge most proper, upon giving such notice thereof as aforesaid, and shall and may in that case put them up at such sum as they shall think fit; and if the person or persons who shall be the farmer or renter or collector or collectors of such tolls shall take a greater or less toll from any person or persons than what is authorised or directed by this or the particular turnpike Act, he or they shall for every such offence forfeit the sum of five pounds, and the said agreement for renting the tolls shall, if the said trustees or commissioners shall think fit to vacate the same, become and be null and void: Provided always, that at all such lettings the trustees or commissioners shall be entitled to bid for the tolls so to be let either by themselves or their clerk or treasurer or any other person by them respectively authorised; provided also, that no such tolls shall be demised or leased for any longer term than three years at any one time.

If Tolls be not let at such Auction, a private Tender may be accepted.

Penalty on Collectors taking more or less than the authorised Toll, 5*l.*

Limiting Leases to Three Years.

How Rent of Tolls is to be paid.

LVI. Provided always, and be it further enacted, That on every letting of any tolls the said trustees or commissioners shall, if they shall think fit, take of the renter or farmer thereof one two or more months rent in advance before they shall put such renter or farmer in possession of the toll gate bar toll house or turnpike at which such tolls are to be collected, and that in every agreement to be entered into by any trustees or commissioners for the letting of any tolls, the rent or money payable for such tolls shall be reserved and made payable monthly or otherwise, as in the notice for letting the said tolls shall be specified; and the renter or farmer of such tolls shall produce two sufficient sureties to join in the said agreement, undertaking on their parts for the due and punctual payment of the rent or sum of money to be paid for the said tolls according to the terms of the agreement entered into by him; and in every case where the terms of such agreement shall not be fulfilled, but the rent or sum of money to be paid at the commencement of any one month shall not be paid when the same shall become due, but shall remain unpaid for three days after the same shall become due, then and in every such case the trustees or commissioners making any such agreement shall and they are hereby empowered, if they shall think fit, to declare the said agreement void and to re-enter and take possession of any such toll gate bar or toll house and the tolls there collected, and to relet the same in manner hereinbefore directed, or to appoint a collector or other fit and proper person to collect and receive the same, and to put out and remove the person or persons so failing in their agreement.

Two sufficient Sureties to join in the Agreement, and on Failure of Payment of Rent for three Days after it becomes due, Possession of Toll Gate may be taken.

Contracts and Agreements to be valid when signed by the Trustees, &c.

LVII. Provided always, and be it further enacted, That all con-

tracts and agreements to be made or entered into for the farming or letting the tolls of any turnpike roads, signed by the trustees or commissioners letting such tolls or any two or more of them or by their clerk or treasurer, and the lessee or farmer and his sureties, of such tolls respectively, shall be good valid and effectual to all intents and purposes, notwithstanding the same may not be by deed or under seal; any Act or Acts of Parliament or law to the contrary thereof notwithstanding.

Lessees of Tolls may appoint Persons to receive the same, who shall be subject to the like Penalties as Collectors appointed by the Trustees.

LVIII. And be it further enacted, That during such time as the tolls or any part or parts thereof, shall be leased to any person or persons whomsoever, it shall be lawful for the lessee or lessees farmer or farmers thereof, or such other person or persons as he she or they shall by writing or writings under his her or their hand or hands authorise or appoint to demand and take such tolls so leased demised or farmed, and to use all such means and methods for the recovery thereof, in case of non-payment or evasion, as any collector of such tolls appointed under or by virtue of any Act of Parliament for the making of turnpike roads, or by this Act, is authorised and empowered to use; and such lessee or lessees farmer or farmers or other person or persons as aforesaid so demanding and taking such tolls, shall be subject to the like pains penalties and forfeitures, and shall be liable to the like actions and prosecutions as any collector of such tolls appointed by the trustees or commissioners is subject or liable to.

Collectors not to be incompetent to give Evidence.

LIX. And be it further enacted, That in case any dispute suit or litigation shall arise touching or in anywise relating to the tolls granted by any Act of Parliament, the person or persons appointed to collect the same, or any other person or persons acting under the authority of the trustees or commissioners, shall not be incompetent to give evidence in any such dispute suit or litigation on account of his being appointed to collect such tolls.

The Property of Toll Houses, &c. vested in Trustees.

LX And be it further enacted, That the right interest and property of and in all the toll gates and toll houses weighing machines and other erections and buildings lamps bars toll boards direction boards mile stones posts rails fences and other things which shall have been or shall be erected and provided in pursuance of any Act of Parliament for making turnpike roads, with the several conveniences and appurtenances thereunto respectively belonging, and the materials of which the same shall consist, and all materials tools and implements which shall be provided for repairing the said roads, and the scrapings of the said roads, shall be vested in the trustees or commissioners acting in pursuance of such Act for the time being, and they are hereby authorised and empowered to apply and dispose of the same as they shall think fit, and to bring or cause to be brought any action or actions, and to prefer and prosecute or order and direct the preferring and prosecuting of any informations or indictments against any person or persons who shall dig up break or pull down steal take or carry away spoil destroy injure or damage any of the toll gates or toll houses weighing machines or other erections or buildings lamps bars toll boards direction boards milestones posts rails fences and other things, or any of the conveniences and appurtenances thereto belonging, or any of the tools implements or materials aforesaid, or shall interrupt them the said trustees or commissioners, or any of their officers, in the possession thereof; in all which proceedings it shall be sufficient to state generally such articles to be the property of the clerk for the time being to the said trustees or commissioners.

Actions may be brought in the Name of the Clerk.

Justices of Peace to be Trustees.

LXI. And be it further enacted, That all his Majesty's justices of the peace for the time being acting for the county or counties through which any turnpike road now does or hereafter shall pass, shall be added to and joined with the trustees or commissioners for making repairing or maintaining every such turnpike road, and shall on qualifying themselves as hereafter mentioned have all the same powers and authorities to all intents and purposes as if the said justices had severally been named or elected trustees or commissioners in or under any Act or Acts of Parliament under which such roads shall be made repaired or maintained.

No. I.
3 Geo. IV. c. 126.

Qualifications of Trustees.

LXII. And be it further enacted, That no person who shall hereafter be chosen or appointed a trustee or commissioner, shall be qualified or capable of becoming and acting as a trustee or commissioner in the execution of any Act of Parliament for making repairing or maintaining any turnpike road, unless he shall be in his own right or in the right of his wife in the actual possession or receipt of the rents and profits of freehold or copyhold lands tenements or hereditaments of the clear yearly value of one hundred pounds above reprizes, or shall be heir apparent of a person possessed of freehold or copyhold lands tenements or hereditaments of the clear yearly value of two hundred pounds above reprizes; and unless he shall before he shall act as such trustee or commissioner take and subscribe the oath or affirmation following before any two or more of the trustees or commissioners appointed or to be appointed by or in pursuance of such Act, who are hereby authorised and empowered to administer the same in the words or to the effect following; (that is to say,)

'I do swear [*or*, being of the people called *Quakers*, do solemnly affirm,] That I truly and *bonâ fide* am in my own right [*or* in the right of my wife] in the actual possession and enjoyment of [*or* in the receipt of rents and profits issuing out of] freehold or copyhold lands tenements or hereditaments of the clear yearly value of one hundred pounds above reprizes, [*or* am heir apparent of who to the best of my knowledge is seised of freehold or copyhold lands tenements or hereditaments of the clear yearly value of two hundred pounds above reprizes] *or* that I am possessed of a personal estate of ten thousand pounds, clear of all debts and incumbrances, *as the case may be.*] So help me GOD.'

'[*or*, being a Quaker, omit the words 'So help me God.']

Qualification by Personal Property within 10 Miles of London.

LXIII. Provided always, and be it enacted, That nothing herein contained shall hinder or prevent any person from acting as a trustee or commissioner of any turnpike roads, any part of which are or shall be situate within ten miles of the *Royal Exchange* in *London*, who shall be possessed of personal property to the amount or value of ten thousand pounds after payment of his debts.

Trustees not to act where interested, or while keeping a Victualling House, &c.

LXIV. Provided also, and be it further enacted, That no person appointed or to be appointed a trustee or commissioner in or by virtue of any Act for repairing turnpike roads, shall be capable of acting as such in the execution of any such Act in any case where he shall be personally interested (except as hereinafter provided) nor during the time he shall keep a victualling house or other house of public entertainment, or who shall sell wine cider beer ale spirituous or other strong liquors by retail, or who shall be a lessee or farmer of the tolls on any turnpike road or of any part or parts thereof; and if any person not being qualified as aforesaid or being disqualified by any of the causes aforesaid or not having taken and subscribed the oath hereinbefore mentioned, or being a Quaker, not having made and subscribed the affirmation hereinbefore mentioned, shall nevertheless presume to act as a trustee or commissioner in the execution of any such Act, every such person shall for every such offence forfeit and pay the sum of fifty pounds to any person or persons who shall sue for the same, to be recovered with full costs of suit in any of his Majesty's Courts of Record at *Westminster*, by action of debt or on the case or by bill plaint suit or information wherein no essoin protection wager of law or more than one imparlance shall be allowed; and the person so sued or prosecuted shall prove that he is qualified, and not disqualified as aforesaid, or otherwise shall pay the said penalty, without any other proof or evidence on the part of the prosecutor than that such person had acted as a trustee or commissioner in the execution of any Act for repairing turnpike roads: Provided nevertheless, that no Act or proceeding touching the execution of any such Act which shall be done or performed by any such unqualified or disqualified person previously to his being convicted of the offence before mentioned shall be thereby impeached or rendered nugatory, but all such proceedings shall be as valid and effectual as if such person had been

Penalty for acting, not being qualified, 50*l.*

Proceedings not to be impeached on account of Disqualification.

duly qualified: Provided always, that no mortgagee or assignee of any mortgage or other security, or any lender of money upon the credit of the tolls or receiving interest thereout for the same, shall on that account only be deemed unqualified to act as a trustee or commissioner in the execution of any such Act; and any trustees or commissioners appointed or to be appointed under any such Act, who are or shall be in the commission of the peace, may act as such justices of the peace in the execution of any such Act notwithstanding their being such trustees or commissioners, except in such cases only wherein they shall be personally interested otherwise than as a trustee commissioner mortgagee assignee lender of money or holder of any security on the credit of the tolls granted by any such Act.

Mortgagees on the Tolls not disqualified on that Account.

LXV. And be it further enacted, That no trustee or commissioner of any turnpike road shall, from and after this Act shall be in force, enjoy any office or place of profit under any Act of Parliament in execution of which he shall have been appointed or shall act as trustee or commissioner or have any share or interest in or be in any manner directly or indirectly concerned in, any contract or bargain for making or repairing or in any way relating to the road for which he shall act, or for building or repairing any toll house toll gate or weighing engine thereon, or for supplying any materials for the use thereof; nor shall any such trustee or commissioner let out for hire any waggon wain cart or other carriage or any horse cattle or team for the use of any turnpike road for which he shall act as a trustee or commissioner; nor by himself or by any other person for or on his account directly or indirectly receive any sum or sums of money to his use or benefit out of the tolls collected on the road for which he shall act during the time he shall be acting as a trustee or commissioner of such road; and if any person after having been appointed or elected a trustee or commissioner of any turnpike road shall without having first duly resigned such office at some meeting of the trustees of the road for which he shall have been elected or appointed, hold any such office or place or be concerned in any such contract or bargain or shall sell any such tools or implements or let out for hire any waggon wain cart or carriage horse cattle or team or receive any money out of the tolls as aforesaid, every trustee or commissioner so offending shall for every such offence forfeit and pay the sum of one hundred pounds to any person or persons who shall sue for the same, and shall from and after the conviction of any such offence be incapable of acting as a trustee or commissioner of any turnpike road; and all acts orders matters and things made or done as a trustee or commissioner by the party so convicted shall from thenceforth be null and void to all intents and purposes, and all and every such contract and bargain shall be and the same is hereby declared to be void, and shall not be enforced against or carried into effect by the other trustees or commissioners entering into the same: Provided always, that all acts orders matters and things made or done by such trustee or commissioner previously to his being convicted of any such offence shall be good valid and effectual; and further provided, that nothing in this enactment contained shall extend or be deemed or construed to extend to any trustee or commissioner who shall receive any sum or sums of money paid out of the tolls of any turnpike road, as or by way of purchase money damages rent recompence or satisfaction agreed upon or awarded to such trustee or commissioner for any lands grounds tenements or hereditaments purchased or taken for the purpose of diverting or altering or for the use of the turnpike road for which he shall act as a trustee or commissioner, or for a repository for materials to be used thereon, or for the damage done to any inclosed or private grounds of any such trustee or commissioner in taking materials therefrom, or in carrying or conveying them over the same, or to prevent any such trustee or commissioner from selling or disposing of for the use of the turnpike road any materials or any timber grown or growing on the land or grounds of such trustee or commissioner.

Trustees and Commissioners not to hold Places of Profit or be concerned in Contracts, &c.

Penalty, 100*l.*

Contracts and Bargains void.

LXVI. And be it further enacted, That when and so often as any of the trustees or commissioners save and except the justices of the peace,

For appointing new Trustees on Vacancies.

No. I.
9 Geo. IV.
c. 126.

appointed or to be elected and appointed under any Act of Parliament for making repairing or maintaining any turnpike road shall die, or by bankruptcy insolvency or otherwise become disqualified to act, or by writing under their hands refuse to act in the execution of such Act, it shall be lawful for the surviving or remaining trustees or commissioner from time to time to elect and appoint one other fit person qualified as aforesaid to be a trustee or commissioner in the room of every trustee or commissioner dying or becoming disqualified or refusing to act as aforesaid; provided that notice of the time and place of meeting of the trustees or commissioners for every such election be given by the clerk or clerks to such trustees or commissioners, by affixing the same in writing upon all the toll gates or turnpikes erected upon the said road for which they shall act as trustees or commissioners and by inserting such notice in one or more of the newspapers circulating in that part of the country where such road shall pass, fourteen days at least before every such meeting, and every person who shall be elected and appointed a trustee or commissioner pursuant to the directions of this Act, shall and may act with the surviving and remaining trustees or commissioners in the execution of such Act to all intents and purposes, as if he had been therein named and appointed a trustee or commissioner.

Notice to be given Fourteen Days before the Meeting.

Meetings of Trustees.

LXVII. And be it further enacted, That the said trustees or commissioners shall and may from time to time meet at such time and place on or near their respective roads, as to them shall seem convenient, and may adjourn themselves to meet at any place or places and at such time or times as the said trustees or commissioners or the major part of them present at any meeting shall appoint; and at all their several meetings the trustees or commissioners shall pay and defray their own expences, except any sum not exceeding ten shillings *per diem* for the use of the room wherein they shall meet; and all orders and determinations of the trustees or commissioners in the execution of any such Acts shall be made at meetings to be held in pursuance thereof, and not otherwise, (except in the cases hereby otherwise particularly provided for) and that no order or determination shall be made unless the major part of the trustees or commissioners present shall concur therein; and that all Acts orders and proceedings relating to any such Act which are directed to be had made done or exercised by or before the said trustees or commissioners, and all the powers and authorities hereby in them vested generally, shall and may be had made done and exercised by the major part of the trustees or commissioners who shall be present at the respective meetings to be held by virtue of any such Act, the whole number present not being less than three (except in such cases where any other number is by any local Act or this Act named for any particular or special purpose); and that all acts orders or proceedings had made or done by or before such three trustees or commissioners shall have the same force and effect and be binding and conclusive on all persons and to all intents and purposes whatsoever as fully and effectually as if the same were had made done or executed by or before all the said trustees or commissioners; and that a chairman shall and may in the first place be appointed at every meeting to be held by virtue and for the purposes of this Act, who in case of an equal number of votes (including the chairman's vote) shall have the casting or decisive vote; and that no order or determination at any meeting of the said trustees or commissioners once made agreed upon or entered into shall be revoked or altered at any subsequent meeting, unless notice of the intention to make such revocation or alteration shall have been given at a previous meeting holden for the same road, and entered in the book of proceedings of such meeting, and also by affixing such notice signed by any two or more trustees or commissioners on all the turnpike gates then erected upon such road twenty-one days at least before such meeting, nor unless such revocation or alteration shall be agreed to be made by seven trustees or commissioners at the least.

Trustees to pay their own Expences, except 10s. per Day for the Use of the Room.

Majority of Trustees to concur.

Three Trustees may act (except where any other number is named by any Local Act.)

Chairman to be appointed.

No Order to be revoked, unless 21 Days' Notice be given and Seven Trustees concur.

Meetings may be held on Emergencies.

LXVIII. And be it further enacted, That if at any time it shall be thought necessary for the better execution of any Act of Parliament for

making repairing or maintaining any turnpike road that the trustees or commissioners of such road should meet before the time to which any meeting may be adjourned, it shall and may be lawful for any two or more of such trustees or commissioners (or for the clerk to the said trustees or commissioners by an order in writing signed by any two or more of them) to give notice of such earlier meeting in the manner before directed, in which notice shall be expressed the time place and purpose of such earlier meeting (such time not being less than fourteen days after publication of the said notice); and all the orders and determinations of the trustees or commissioners at all such meetings shall be as valid as if the same had been done at any other meeting of trustees or commissioners held by virtue of this Act, or the Act under and by virtue of which they shall act as trustees or commissioners; Provided always, that no other business than what shall be specified in such notice shall be transacted at any such meeting.

Fourteen Days' Notice to be given in the Newspapers, and the Intent of such Meeting specified, and no other Business to be then transacted.

LXIX. And be it further enacted, That all trustees and commissioners of every turnpike road or roads shall and they are hereby required to hold a general meeting of the trust for which they shall respectively act on a day to be by them or any three or more of them appointed in the months of *April September* or *October*, of which meeting twenty-one days notice shall be given by inserting the same in some newspaper or newspapers usually circulating in the county or counties in which the road or roads in respect whereof such meeting shall be held lie or are situated, which said meeting shall be called or known as "The General Annual Meeting of the Trustees or Commissioners;" and at such meeting the trustees or commissioners assembled shall elect a chairman for the purposes thereof, and shall also audit their accounts and report the state of the road or roads under their care and superintendance.

General Annual Meetings to be held.

LXX. And be it further enacted, That where a sufficient number of the trustees or commissioners of any turnpike road shall not meet on the day appointed by any such Act or Acts respectively for their first meeting, or shall not meet on the day appointed by adjournment for their meeting, or for want of a proper adjournment, by which means or by some or one of them the intent of the said Act or Acts may be frustrated, in all or either of the said cases it shall be lawful for so many of the said trustees or commissioners as shall meet, or the major part of them, or in case no such trustee or commissioner shall be present, for their clerk or clerks to cause notice in writing to be affixed on all the turnpike gates which shall be then erected on the said respective roads, or if no turnpike gate shall then be erected to cause the like notice to be affixed in the most conspicuous place in one of the principal towns or places nearest to which the roads directed to be repaired do lie, and also in some public newspaper circulated in the county in which the road shall be situate, at least ten days before the intended meeting, appointing such trustees or commissioners to meet at such place where the preceding meeting was appointed to have been held, or at the place directed for the first meeting of such trustees or commissioners, if no such preceding meeting shall have been held; and the said trustees or commissioners when met in pursuance of such notice, shall and may and they are hereby required to proceed and carry such Act or Acts into execution in the same and in as ample and full a manner to all intents and purposes as they might or could have done if no such neglect had happened.

If a sufficient Number of Trustees or Commissioners do not attend, another Meeting shall be appointed, of which Ten Days' Notice shall be given.

LXXI. And be it further enacted, That it shall not hereafter be lawful for any trustees or commissioners to continue or appoint the person who has been or may be appointed to act as their clerk in the execution of any Act or Acts of Parliament for repairing and maintaining any turnpike road, or the partner of any such clerk to be or to hold the offices of clerk and treasurer for the purposes of such Act or Acts, or to continue or appoint the person who has been or may be appointed treasurer, or the partner of any such treasurer, to be the treasurer and clerk for the purposes of such Act or Acts; and if any person shall act in both the capacities of clerk and treasurer, or if any person being the partner of any such clerk shall act as treasurer, or being the partner of such treasurer

Office of Treasurer and Clerk to be kept separate.

Penalty, 50*l.*

No. I.
3 Geo. IV. c. 126.

shall act as clerk in the execution of this or any other Act, every person shall for every such offence forfeit and pay the sum of fifty pounds to any person or persons who shall sue for the same, to be recovered with full costs of suit in any of his Majesty's courts of record at *Westminster*, by action of debt or on the case or by bill suit or information, wherein no essoin protection or wager of law nor more than one imparlance shall be allowed.

Orders and Proceedings to be entered in Books, which shall be open for Inspection.

LXXII. And be it further enacted, That all orders and proceedings of the trustees or commissioners of every turnpike road, together with the names of the trustees or commissioners present at every meeting, shall be entered in a book or books to be kept by the clerk to the said trustees or commissioners for that purpose, and be signed by the chairman of the meeting or meetings at which such orders or proceedings shall be from time to time made or had; and that such book or books shall be open at all seasonable times to the inspection of any of the trustees or commissioners, without fee or reward; and such orders and proceedings so entered and signed by the chairman of such meeting or meetings as aforesaid, shall be deemed and taken to be original orders and proceedings; which said book or books, as well as the book or books in which the oath or affirmation directed to be taken by the said trustees or commissioners shall be entered, and also the book or books directed to be kept for registering mortgages and assignments, and all entries in such books respectively shall and may be read in evidence in all courts whatsoever in all cases of appeal and in all prosecutions suits and actions whatsoever.

Books to be Evidence.

Books of Account to be kept, and to be open to the Inspection of Trustees and Creditors.

LXXIII. And be it further enacted, That the trustees and commissioners of every turnpike road shall, and they are hereby required, from time to time and at all times to order and direct a book or books to be provided and kept by their clerk for the time being; in which book or books such clerk shall enter or cause to be entered true and regular accounts of all sums of money received paid laid out and expended for or on account of the road for which such clerk shall act, and of the several articles matters and things for which such sums of money shall have been disbursed laid out and paid; and such book or books shall at all seasonable times be open to the inspection of the said trustees or commissioners or any creditor or creditors on the tolls collected and taken on the road to which such books relate, without fee or reward; and the said trustees or commissioners and creditors or any of them shall or may take copies of or extracts from the said book or books or any part or parts thereof, without paying any thing for the same; and the said book or books shall be produced by the said clerk at all meetings of the said trustees or commissioners; and in case any clerk shall refuse to permit or shall not permit any of the said trustees or commissioners or any such creditor to inspect any such book or books or to take such copies or extracts as aforesaid, or in case such clerk shall refuse or neglect to produce such book or books at any meeting of the said trustees or commissioners, such clerk shall forfeit and pay any sum of money not exceeding five pounds, to be levied and applied in the same manner as other penalties are hereby directed to be levied and applied.

Penalty not exceeding 5*l.* on Clerk for refusing Inspection, &c.

Trustees may sue and be sued in the Name of their Clerk, &c.

LXXIV. And be it further enacted, That the trustees and commissioners of every turnpike road may sue and be sued in the name or names of any one of such trustees or commissioners or of their clerk or clerks for the time being; and that no action or suit to be brought or commenced by or against any trustees or commissioners of any turnpike road by virtue of this or any other Act or Acts of Parliament in the name or names of any one of such trustees or commissioners or their clerk or clerks shall abate or be discontinued by the death or removal of such trustee commissioner clerk or clerks or any of them, or by the Act of such trustee commissioner clerk or clerks or any of them without the consent of the said trustees or commissioners; but that any one of such trustees or commissioners or the clerk or clerks for the time being to the said trustees or commissioners shall always be deemed to be the plaintiff or plaintiffs defendant or defendants (as the case may be) in every such action or suit: Provided always, that every such trustee commissioner

clerk or clerks shall be reimbursed and paid out of the monies belonging to the turnpike road for which he or they shall act all such costs charges and expences as he or they shall be put unto or become chargeable with or liable to by reason of his or their being so made plaintiff or plaintiffs defendant or defendants.

Victuallers not to hold Places of Profit.

LXXV. And be it further enacted, That no person shall be capable of holding any place of profit under any trustees or commissioners of any turnpike road who shall sell any wine ale spirituous liquors or provisions by retail.

Treasurer to give Security.

LXXVI. Provided always, and be it further enacted, That the trustees and commissioners of every turnpike road shall and they are hereby required to take sufficient security from every treasurer to be appointed by them for the purposes of any Act or Acts of Parliament for making repairing or maintaining any turnpike road for the due and faithful execution of his office, before such treasurer shall enter upon his office; and if they shall so think proper, shall and may also take such security from any other officer to be appointed under or by virtue of this or such other Act.

Security may be taken from any other Officer.

Officers to account when required.

LXXVII. And be it further enacted, That all such officers as shall be appointed by any commissioners or trustees of any turnpike road shall as often as required by the commissioners or trustees render and give to them or to such person or persons as they shall for that purpose appoint, a true exact and perfect account in writing, under their respective hands with the proper vouchers, of all monies which they shall respectively to the time of rendering such accounts have received paid and disbursed by virtue of this or any other Act, or for or on account or by reason of their respective offices; and in case any money so received by any such officer shall remain in his hands, the same shall be paid to the trustees or commissioners or to such person or persons as they shall in writing under their hands authorise and empower to receive the same; and if any such officer shall refuse or wilfully neglect to render and give such account or to produce and deliver up such vouchers, or shall for the space of fourteen days after being thereunto required by the said trustees or commissioners or any three or more of them refuse or neglect to render and give up to them or to such person or persons as they shall direct or appoint all books papers writings tools matters and things in his hands custody or power relating to the road for which he shall act or which he shall have disposed of without the consent and approbation of the trustees or commissioners, then it shall be lawful for any justice of the peace for the county where the officer so making default shall be or reside upon application made to him for that purpose, by or on behalf of the trustees or commissioners to make inquiry of and concerning any such default as aforesaid in a summary way, as well by the confession of the party as by the testimony of any credible witness or witnesses upon oath without fee or reward, and by warrant under his hand and seal to cause such money as shall appear to him to be due and unpaid, to be levied by distress and sale of the goods and chattels of such officer, rendering to him the overplus (if any) on demand, after payment of the money remaining due and deducting the charges and expenses of making such distress and sale; and if sufficient distress cannot be found, or if it shall appear to any such justice in manner aforesaid, that any such officer shall have refused or wilfully neglected to give such account or to deliver up all books papers writings tools matters and things in his custody or power relating to the execution of his office, such justice shall commit him to the house of correction or common gaol of the county where such offender shall be or reside, there to remain without bail or mainprize until he shall make and give a true and perfect account and verify the same in manner aforesaid, and shall produce and deliver up the vouchers relating thereto, and shall have paid the money (if any) remaining in his hands as aforesaid according to the direction of the trustees or commissioners, or shall have compounded with the said trustees or commissioners for such money and paid such composition according to their direction, which composition all trustees and com-

On Complaint to a Justice of Officers neglecting to render Account, or not producing Vouchers, or refusing to deliver up Books, such Justice may cause any Balance due to be levied on the Goods of the Defaulter.

If Distress be insufficient, or if Books, &c. be not delivered up, the Justice may commit the Offender.

No. I.
3 Geo. IV.
c. 126.

missioners are hereby empowered to make and receive, or until he shall deliver up such books papers and writings tools matters and things as aforesaid, or have given satisfaction to the trustees or commissioners concerning the same; but no such officer who shall be committed on account of his not having sufficient goods and chattels as aforesaid shall be detained in prison by virtue of this Act for any longer time than six calendar months.

Limiting Time of Commitment.

For auditing Accounts of Treasurers, Clerks, and Surveyors, at the General Annual Meeting.

LXXVIII. And be it further enacted, That the trustees or commissioners of every turnpike road shall and they are hereby required at their general annual meeting in each year to examine audit and settle the accounts of the respective treasurers clerks and surveyors appointed by them, and to require such treasurers clerks and surveyors to produce their books accounts papers and vouchers, and to examine into the revenues and debts, distinguishing bond from simple contract debts, of the several roads for which they shall act as a treasurer clerk or surveyor; and when the accounts of the said several treasurers clerks and surveyors shall be settled and allowed by the trustees or commissioners present at such meeting the same shall be signed by the chairman of such meeting; and if any treasurer clerk or surveyor shall refuse or neglect to produce his accounts or any book paper or voucher required to be produced by him, such treasurer clerk or surveyor shall be dealt with according to the provisions hereinbefore contained with regard to officers refusing to account or deliver up books or papers or pay over money in their hands; and when and as soon as the said accounts of the said respective treasurers clerks and surveyors shall be audited allowed and signed, the clerk to the trustees or commissioners holding such meeting shall forthwith make out a statement of the debts revenues and expenditure received or incurred on account of the trust for which the meeting shall be held in the form contained in the schedule to this Act annexed; which said statement shall be submitted to the trustees or commissioners assembled at such meeting, and when approved by the majority of them shall be signed by the chairman of the said meeting; and the said statement being so approved and signed, the said clerk shall within thirty days thereafter transmit the same to the clerk of the peace of the county in which the road or the major part thereof to which the said statement relates shall lie; and if any clerk shall refuse or neglect to make out such statement as aforesaid or to transmit the same within the time hereinbefore mentioned, every clerk so offending shall for such offence forfeit and pay the sum of fifty pounds, to be recovered as hereinafter directed.

Treasurer, &c. neglecting to produce Accounts, &c. how to be dealt with.

Statement of the Revenue and Expenditure to be made out according to the Form in Schedule annexed, and being approved shall be transmitted to the Clerk of the Peace.

Penalty 50*l.*

Clerk of the Peace to register such Statements, and produce them to the Quarter Sessions.

LXXIX. And be it further enacted, That the clerk of the peace of every county to whom such statements shall be transmitted shall on receiving such statements cause the same to be produced to the justices assembled at the quarter sessions to be held next after the receipt thereof, and also to be registered and kept amongst the records of the quarter sessions of the county for which such clerk of the peace shall act; and the said statements so to be transmitted to the said respective clerks of the peace shall when registered be open to the inspection of all and every person and persons whatsoever, who may take extracts therefrom or copies thereof, paying to the clerk of the peace in whose custody the same shall be the sum of five shillings for each inspection and the sum of sixpence for every seventy-two words of each extract or copy taken.

Fee for Inspection and Copy.

Statements to be printed and sent to Trustees.

LXXX. And be it further enacted, That the said trustees or commissioners shall immediately after such accounts and statements have been examined audited and signed cause a sufficient number of copies of such statements to be printed, and direct their clerk to transmit a copy thereof to each acting trustee or commissioner, having duly qualified himself to act as such trustee or commissioner of such road.

Power to borrow Money.

LXXXI. And be it further enacted, That it shall be lawful for the trustees or commissioners of any turnpike road to borrow and take up at interest on the credit of the tolls arising on such road such sum or sums of money as they shall from time to time respectively think proper, and to demise and mortgage the tolls on such road or any part or parts

thereof, and the turnpikes and toll houses for collecting the same (the costs and charges of which mortgages shall be paid out of the tolls) as a security to any person or persons or their trustees who shall advance such sum or sums of money; which mortgages shall be in the words or to the effect following, (that is to say)

Form of Mortgage.

'BY virtue of an Act passed in the year of
'the reign of intituled [*here set forth the*
'*title of this Act*] We whose hands and seals are hereunto subscribed
'and set, being of the
'trustees [*or* Commissioners] for putting into execution an Act passed
'in the year of the reign of
'intituled [*here set forth the title of the Act under which the trustees or*
'*commissioners borrowing the money and granting the mortgage shall act*] in
'consideration of the sum of sterling
'advanced and paid by *A B.* of to the
'treasurer of the said trustees [*or* commissioners] do hereby grant and
'assign unto the said *A B* and his executors administrators and assigns,
'such proportion of the tolls arising and to arise on the said turnpike
'road and the toll gates and toll houses erected or to be erected for
'collecting the same, as the said sum of
'doth or shall bear to the whole sum now or hereafter to become due
'and owing on the security thereof: To have hold receive and take
'the said proportion of the said tolls toll gates toll houses and premises
'with the appurtenances unto the said *A B.* and his executors ad-
'ministrators and assigns for and during the residue of the term for
'which the said tolls are granted by the said last-mentioned Act, unless
'the said sum of with interest after
'the rate of *per centum per annum* shall be sooner repaid and
'satisfied Given under our hands this of

And copies of all such mortgages shall be entered in a book or books to be kept for that purpose by the clerk or treasurer to the said trustees or commissioners, for which entry such clerk shall be paid the sum of five shillings and no more out of the tolls payable on such road, and which said book or books shall and may at all seasonable times be perused and inspected without fee or reward, and it shall be lawful for all persons respectively to whom any mortgage shall be made as aforesaid, or who shall be from time to time entitled to the money thereby secured, to assign or transfer his her or their right title and interest in and to such mortgage and the principal money and interest thereby secured to any other person or persons whomsoever; which assignment or transfer may be made in the following words or words to the like effect, to be indorsed on such mortgage security or to be underwritten or thereunto annexed, and signed in the presence of and attested by one or more credible witness or witnesses; (that is to say)

Mortgages may be assigned.

Form of Assignment.

'I *A. B.* [*or* I *C. D.* assignee executor or administrator of *A B. as the*
'*case may happen*] do hereby assign and transfer this mortgage security
'with all my right and title to the principal money thereby secured and
'all interest now due and hereafter to grow due upon the same unto *E F.*
'his or her executors administrators and assigns. Dated this
' day of one thousand eight hundred
'and
'Witness *G H.* (Signed) *A B* or *C D.*'

Which transfer shall be produced and notified to the clerk or treasurer of the said trustees or commissioners within two calendar months next after the day of the date thereof, who shall enter the same in the said book or books, for which entry the said clerk or treasurer shall be paid the sum of five shillings and no more; and such transfer shall then entitle such assignee his executors administrators and assigns to the full benefit of such mortgage security, and every such assignee may in like manner assign or transfer the same, and so *toties quoties*, and it shall not

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be in the power of any person or persons (except the person or persons to whom the same shall be last transferred, his her or their respective executors or administrators) to release discharge or make void the original mortgage security or the monies due thereon or any part thereof; and all persons to whom any such mortgage or transfer shall be made as aforesaid, shall in proportion to the sum or sums of money thereby secured be creditors on the tolls by such Act granted and on the said toll gates and toll houses in equal degree one with another, or in such order as shall be agreed upon and stipulated by the said trustees or commissioners at the time of the advance of their respective shares.

Enforcing the Payment of Money subscribed.

LXXXII. And be it further enacted, That if any person or persons shall agree to advance any sum or sums of money to be employed in the making or repairing of any turnpike road or highway intended to be made turnpike, and shall subscribe his her or their name or names to any writing for that purpose, every such person shall be liable to pay every such sum or sums of money so subscribed according to the purport of such writing; and in default of payment thereof within twenty-one days after the same shall become payable according to the purport of such writing, and shall be demanded by the person to whom the same is made payable by such writing, or if no person be named therein for that purpose, by the treasurer of such turnpike or intended turnpike road, it shall and may be lawful for every such treasurer or other person to sue for and recover the same in any of his Majesty's courts of record by action of debt or on the case or by bill suit or information wherein no essoin protection or wager of law nor more than one imparlance shall be allowed.

Powers for making and improving the Roads.

LXXXIII. And be it further enacted, That it shall be lawful for the trustees or commissioners of every turnpike road, and they are hereby fully authorised and empowered from time to time, to make divert shorten vary alter and improve the course or path of any of the several and respective roads under their care and management or of any part or parts thereof, and to divert shorten vary alter and improve the course or path of any of the said several and respective roads through or over any commons or waste grounds or uncultivated lands without making satisfaction for the same, and also through or over any private lands tenements or hereditaments tendering and making satisfaction to the owners thereof and persons interested therein, for the damage they shall sustain thereby; and it shall and may be lawful for the said trustees or commissioners and for their surveyor or surveyors and workmen, with or without carriages or cattle from time to time, to enter upon any such commons or waste grounds or uncultivated lands private lands tenements or hereditaments as aforesaid, through or over which the said road or the widenings and alterations thereof pass or are intended to pass, and to stake out and make the same in such manner as the said trustees or commissioners shall think necessary or proper, without being thereby subject or liable to be deemed a trespasser or trespassers or to any fine penalty or forfeiture for entering or continuing upon any part or parts of such lands tenements and hereditaments respectively for any of the purposes aforesaid.

Lands may be purchased for improving the Road.

LXXXIV. And be it further enacted, That it shall be lawful for the trustees or commissioners of any turnpike road to treat contract and agree with the owners of and persons interested in any lands tenements hereditaments and premises with their appurtenances, which they shall deem necessary to purchase for the purpose of widening diverting altering and improving such road for the purchase thereof, and for the loss or damage such owners or persons may otherwise sustain; and it shall be lawful for all bodies politic corporate or collegiate corporations aggregate or sole tenants for life or in tail husbands guardians trustees feoffees in trust committees executors administrators and all other persons whomsoever, not only for or on behalf of themselves their heirs and successors, but also for and on behalf of the person or persons entitled in reversion remainder or expectancy after them, and for and on behalf of their cestuique trusts, whether femes covert infants or issue unborn lunatics idiots

Bodies Politic, &c. and Incapacitated Persons empowered to sell.

or other person or persons whomsoever, and to and for all femes covert who are or shall be seised of or interested in their own right, and to and for all and every person and persons whomsoever who are or shall be possessed of or interested in any such lands tenements hereditaments or premises or who shall sustain any damage as aforesaid, to contract with the said trustees or commissioners for the sale thereof, or for the satisfaction to be made for the same, or for such damages as aforesaid; and by conveyance lease and release or bargain and sale to sell and convey unto the said trustees or commissioners all or any such lands tenements hereditaments or premises or any part thereof for the purposes aforesaid; and all contracts sales and conveyances which shall be so made shall be good valid and effectual to all intents and purposes without fine or recovery, and shall be a complete bar to all estates tail and other estates rights titles trusts and interests whatsoever, any law statute usage custom or other matter to the contrary notwithstanding; and all such bodies politic corporate or collegiate corporations aggregate or sole tenants for life or in tail husbands guardians trustees feoffees committees executors administrators and all other persons, shall be and are hereby indemnified for what they or any of them shall do by virtue or in pursuance of this Act.

Contracts binding.

LXXXV. And be it further enacted, That if any such bodies politic corporate or collegiate corporations aggregate or sole tenants for life or in tail husbands guardians trustees feoffees committees executors administrators, or any other person or persons interested in any such lands tenements hereditaments or premises or sustaining any damage as aforesaid, upon notice to him her or them given or left in writing at the dwelling house or dwelling houses place or places of abode of such person or persons, or of the principal officer or officers of any such bodies politic corporate or collegiate corporations aggregate or sole tenants for life or in tail, or at the house of the tenant in possession of any such lands tenements hereditaments or premises, shall for the space of thirty days next after such notice given or left as aforesaid neglect or refuse to treat or shall not agree in the premises, or by reason of absence shall be prevented from treating then, and in every such case the said trustees or commissioners shall cause such damage value or recompence to be inquired into and ascertained by a jury of twelve indifferent men of the county riding or place wherein such lands tenements hereditaments or premises do lie; and in order thereto the said trustees or commissioners are hereby empowered and required from time to time as occasion shall require to summon and call before such jury and examine upon oath all and every person and persons whomsoever who shall be thought necessary and proper to be examined concerning the premises (which oath the said trustees or commissioners or any or either of them are and is hereby empowered to administer); and such trustees or commissioners shall by ordering a view or otherwise use all lawful ways and means, as well for their own as for the said jury's information in the premises; and after the said jury shall have inquired of and assessed such damage and recompence, they the said trustees or commissioners shall thereupon order the sum or sums of money so assessed by the said jury to be paid to the said owners or other persons interested, according to the verdict or inquisition of such jury; and such verdict or inquisition and judgment order and determination thereon, shall be final binding and conclusive to all intents and purposes against all parties and persons whomsoever claiming or to claim any estate in possession reversion or otherwise their heirs and successors, as well absent as present, infants femes covert idiots lunatics and persons under any other disability whatsoever bodies politic corporate or collegiate corporations aggregate or sole tenants for life or in tail, as well as all and every person and persons whomsoever; and for summoning and returning such juries, the said trustees or commissioners are hereby empowered to issue their warrant or warrants in writing to the sheriff of the county wherein such lands tenements hereditaments or premises do lie, commanding him to impannel summon and return an indifferent jury of twenty-four persons, qualified to serve upon juries to

When Persons interested neglect or refuse to treat, the Value may be ascertained by a Jury.

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appear before such trustees or commissioners at such time and place as in such warrant or warrants shall be appointed; and such sheriff or his deputy or deputies is and are hereby required to impannel summon and return such number of persons accordingly; and out of the persons so impannelled summoned and returned or out of such of them as shall appear upon such summons, the said trustees or commissioners shall and are hereby empowered and required to swear or cause to be sworn twelve men, who shall be a jury for the purposes aforesaid; and in default of a sufficient number of jurymen, the said sheriff or his deputy or deputies shall return other honest and indifferent men of the standers-by or that can be speedily procured to attend that service to the number of twelve; and all persons concerned shall have their lawful challenges against the said jurymen when they come to be sworn, but shall not challenge the array; and the said trustees or commissioners acting in the premises shall have power from time to time to impose any reasonable fine or fines upon such sheriff his deputy or deputies bailiff or bailiffs agent or agents making default in the premises, and on any of the persons that shall be summoned and returned on such jury, and who without sufficient excuse shall not appear or appearing shall refuse to be sworn on the said jury, or being sworn shall refuse to give or shall not give their verdict or in any other manner wilfully neglect their duty therein, contrary to the true intent and meaning of this Act, and on any of the persons who being required to give evidence before the said jury, shall without sufficient excuse refuse or neglect to appear or appearing shall refuse to be sworn and examined or to give evidence, so that no one fine be more than ten pounds on any such sheriff deputy bailiff or agent, nor more than five pounds on any other person for one offence.

Fines may be imposed on Sheriffs, &c. making Default in the Premises.

LXXXVI. And be it further enacted, That every sum of money or recompence to be agreed for or assessed as aforesaid shall be paid out of any monies in the hands of the said trustees or commissioners, or out of the tolls granted by the Act for making and repairing such turnpike road, or out of the monies to be borrowed on the credit thereof to the party or parties or person or persons respectively entitled thereto or to their agents or into the Bank of *England*, in manner by this Act directed (as the case may be); and upon such payment to such parties or persons or their agents or into the Bank of *England*, and after thirty days notice thereof given to such parties or persons or to their agents, or left at their respective usual places of abode or with the tenant or tenants in possession of such lands tenements hereditaments and premises, then such lands tenements hereditaments and premises respectively shall be vested in such trustees or commissioners, and shall and may be taken and used for the purposes of such Act; and such lands and the site of such lands tenements hereditaments and premises shall be laid into and made part of the road in such manner as the said trustees or commissioners shall direct, and shall be repaired and kept in repair by such trustees or commissioners by the same ways and means as any other part of the road under their management is or ought to be kept in repair; and all parties and persons whomsoever shall be divested of all right and title to such lands tenements and hereditaments; and after such new road shall be completed, the lands or grounds constituting any former roads or road, or so much and such part or parts thereof as in the judgment of the said trustees or commissioners may thereby become useless or unnecessary, or shall or may be stopped up and discontinued as public highways (unless leading over some moor heath common uncultivated land or waste ground, or to some church mill village town or place lands or tenements, to which such new road or roads doth not or do not immediately lead, and which may therefore be deemed proper to be kept open either as a public or private way or ways, for the use of any inhabitant at large or any individual or individuals), and shall be vested in and shall and may be sold and conveyed by the said trustees or commissioners in the manner herein mentioned for the best price that can be gotten for the same, and the money arising by such sale shall be applied for the purposes of the Act for repairing and maintaining such turnpike

Money assessed for Lands, &c. to be paid by the Trustees, and tendered to the Parties entitled thereto, or paid into the Bank, upon which the Premises shall vest in the Trustees.

After new Road is completed, the old Road may be sold.

road; and all conveyances being executed by the said trustees or commissioners, and enrolled in the office of the clerk of the peace for the county city or place wherein such road shall be situate, shall be good and effectual in the law to all intents and purposes whatsoever; or it shall be lawful for the said trustees or commissioners, instead of making such sale as aforesaid, to give up to the owners or proprietors of any adjoining lands tenements or hereditaments, whose building land or ground shall be had or taken for the purposes of this Act, any part or parts of the present or old roads in lieu of and in exchange for the same, in such way and manner as such trustees or commissioners and owners or proprietors shall agree upon and think fit.

Conveyances executed by the Trustees, and enrolled in the Office of the Clerk of the Peace to be valid.

How Expences of Jury and Witnesses are to be borne.

LXXXVII. And be it further enacted, That in case any jury or juries to be summoned and sworn pursuant to the directions and authority of this Act, shall give in and deliver a verdict or assessment for more money as a recompence or satisfaction for the right interest or property of any person or persons in any such lands tenements hereditaments or premises, or for any loss or damage to be by him her or them sustained, than what shall have been agreed to and offered by such trustees or commissioners before the summoning or returning the said jury or juries, as a recompence or satisfaction for any such right interest or property or for any loss or damage as aforesaid, then and in such case the costs and expences of summoning and maintaining the said jury and witnesses and all other expences attending the hearing and determining such difference, shall be borne and paid by the treasurer to the trustees or commissioners, out of any money which shall then be in his hands, or out of any monies to be received by virtue of the Act for repairing and maintaining such turnpike road, such costs and expences to be settled and ascertained by some justice of the peace for the county or place wherein the dispute shall have arisen not interested in the matter in question, who is hereby authorised and empowered to settle and determine the same, and to make an order on the treasurer of the trustees or commissioners liable thereto for the payment thereof; but if any such jury or juries so summoned and sworn as aforesaid shall give in and deliver a verdict or assessment for no more or for less money than shall have been agreed to and offered by the trustees or commissioners before the summoning and returning of the said jury or juries, as a recompence and satisfaction for any such right interest or property in any such lands tenements hereditaments or premises or losses or damages as aforesaid, then the costs and expences of summoning and maintaining the said jury and witnesses and all other expences as aforesaid, shall be borne and paid by the person or persons with whom such trustees or commissioners shall have such controversy or dispute; which said costs and expences having been ascertained and settled by some justice of the peace for the county riding or place wherein the cause of dispute shall arise, not interested in the matter in question, (who is hereby required to examine and settle the same), shall and may be deducted out of the money so assessed and adjudged, as so much money advanced to and for the use of such person or persons, and the payment or tender of the remainder of such monies shall be deemed and taken, to all intents and purposes, to be a payment or tender of the whole sum or sums so assessed and adjudged, or otherwise such costs and expences in case the same or any part thereof shall exceed such damages, and shall not be paid upon demand, after being so ascertained and settled as aforesaid may be recovered by the said trustees or commissioners by the ways and means hereinafter provided for the recovery of penalties and forfeitures: Provided always, that in all cases where any person or persons shall by reason of absence have been prevented from treating, such costs and expences shall be borne and paid by the said trustees or commissioners in manner aforesaid.

When new Road shall be completed, old Highway to be stopped up, and the Land sold.

LXXXVIII And be it further enacted, That when any turnpike road shall be diverted or turned, and the new road shall be made and completed, such new road shall be in lieu of the old road, and shall be sub-

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ject to all the provisions and regulations in any Act of Parliament contained or otherwise to which the old road was subject, and shall be deemed and taken to be a common highway, and shall be repaired and maintained as such; and the old road shall be stopped up, and the land and soil thereof shall be sold by the trustees or commissioners to some person or persons whose lands adjoin thereto, as hereinafter mentioned with regard to pieces of ground not wanted; but if such old road shall lead to any lands house or place, which cannot in the opinion of the said trustees or commissioners be conveniently accommodated with a passage from such new road, which they are hereby authorised to order and lay out if they find it necessary, then and in such case the old road shall be sold, but subject to the right of way and passage to such lands house or place respectively, according to the ancient usage in that respect; and the money arising from such sale in either of the said cases shall be applied towards the purchase of the land where such new road shall be made, or in the same manner as the tolls arising on such road as the trustees or commissioners thereof shall think fit; and upon the completion of any contract whereby any part of the old road shall be given in payment for the value of the ground taken for the new road, or upon payment of the price of any part of the old road, the soil of such old road shall become vested in the purchaser thereof and his heirs; but all mines minerals and fossils lying under the same shall continue the property of the person or persons who would from time to time have been entitled to the same if such old road had continued.

When any Parts of Land not wanted for the Purposes of Roads are to be sold, the First Offer to be made to the original or adjoining Owners.

LXXXIX. And be it further enacted, That where the trustees or commissioners of any turnpike road shall have purchased or shall be possessed of any piece or pieces of ground not wanted for the purposes of such road, it shall and may be lawful for such trustees or commissioners to sell and dispose of the same: Provided always, that the said trustees or commissioners before they shall sell and dispose of any such piece or pieces of ground not wanted for the purposes of such turnpike road as aforesaid to any other person or persons, shall first offer the same to the person or persons of whom the same shall have been purchased or to the person or persons whose lands shall adjoin thereto, and if such person or persons respectively shall then and thereupon refuse or shall not agree (except with respect to or on account of the price thereof) to purchase the same respectively on an affidavit being made and sworn before a master or master extraordinary in the High Court of Chancery or before one of his Majesty's justices of the peace for the county liberty or place where such ground is situate (who are hereby respectively empowered to take such affidavit) by some person or persons no way interested in the said piece or pieces of ground, stating that such offer was made by or on the behalf of such trustees or commissioners, and that such offer was then and thereupon refused or was not agreed to by the person or persons to whom the same was made, such affidavit shall in all courts whatsoever be sufficient evidence and proof that such offer was made and was refused or not agreed to by the person or persons to whom such offer was made (as the case may be); and in case such person or persons shall be desirous of purchasing such piece or pieces of ground and he she or they and the said trustees or commissioners shall differ or not agree with respect to the price thereof, then the price or prices thereof shall be ascertained by a jury in manner in this Act directed with respect to disputed values of premises to be taken and used in pursuance of this Act, and the expence of hearing and determining such difference shall be borne and paid in manner hereinbefore directed with respect to such purchases made by the said trustees, *mutatis mutandis*; and the money to arise by the sale or sales of such pieces or parcels of ground shall be applied by the trustees or commissioners to the purposes of the Act for repairing and maintaining such turnpike road, but the purchaser or purchasers thereof shall not be answerable or accountable for any misapplication or non-application of such money; and the conveyances of such piece or pieces of ground shall be made to the purchaser or respective purchasers thereof and in such manner and form as is hereinbefore directed with respect to

What shall be Evidence of such Offer and Refusal.

In case of Dispute as to Price, the Value to be ascertained by a Jury.

the conveyances to be made of the land constituting any part of the roads hereinbefore directed to be sold.

Application of Compensation Money exceeding 200*l.*

XC. And be it further enacted, That if any money shall be agreed or awarded to be paid for any lands tenements or hereditaments purchased taken or used by virtue of the powers of this Act, by any trustees or commissioners of any turnpike road, which shall belong to any corporation feme covert infant lunatic tenant for life or in fee tail general or special or person or persons under any disability or incapacity, such money shall in case the same shall amount to or exceed the sum of two hundred pounds with all convenient speed be paid into the bank of *England* in the name and with the privity of the accountant general of the High Court of Chancery to be placed to his account, *ex parte*, the trustees or commissioners of the road for which such lands tenements or hereditaments shall be taken, to the intent that such money shall be applied under the direction and with the approbation of the said court, to be signified by an order made upon a petition to be preferred in a summary way by the person or persons who would have been entitled to the rents and profits of the said lands tenements or hereditaments in the purchase of the land tax or towards the discharge of any debt or debts or such other incumbrances or part thereof as the said court shall authorise to be paid, affecting the same lands tenements or hereditaments or affecting other lands tenements or hereditaments standing settled therewith to the same or to the like uses trusts intents or purposes; or where such money shall not be so applied, then the same shall be laid out and invested under the like direction and approbation of the said court in the purchase of other lands tenements or hereditaments, which shall be conveyed and settled to for and upon such and the like uses trusts intents and purposes, and in the same manner as the lands tenements or hereditaments which shall be so purchased taken or used as aforesaid, stood settled or limited, or such of them as at the time of making such conveyance or settlement shall be existing undetermined and capable of taking effect; and in the meantime and until such purchase shall be made the said money shall by order of the said Court of Chancery, upon application thereto, be invested by the said accountant general in his name in the purchase of three pounds *per centum* consolidated, or three pounds *per centum* reduced bank annuities; and in the meantime and until the said bank annuities shall be ordered by the said court to be sold for the purposes aforesaid, the dividends and annual produce of the said consolidated or reduced bank annuities shall from time to time be paid by the order of the said court to the person or persons who would for the time being have been entitled to the rents and profits of the lands tenements or hereditaments so hereby directed to be purchased, in case such settlement or purchase were made.

Application of Compensation Money when less than 200*l.* and not less than 20*l.*

XCI. Provided always, and be it further enacted, That if any money so agreed or awarded to be paid for any lands tenements or hereditaments purchased taken or used for the purposes aforesaid, belonging to any corporation or to any person or persons under disability or incapacity as aforesaid, shall be less than the sum of two hundred pounds, and shall amount to or exceed the sum of twenty pounds, then and in all such cases the same shall at the option of the person or persons for the time being entitled to the rents and profits of the lands tenements or hereditaments so purchased taken or used, or of his her or their guardian or guardians committee or committees in case of infancy or lunacy to be signified in writing under their respective hands be paid into the said bank in the name and with the privity of the said accountant general of the High Court of Chancery, and be placed to his account as aforesaid, in order to be applied in manner hereinafter directed; or otherwise the same shall be paid at the like option to two trustees to be nominated by the person or persons making such option and approved by three or more of the trustees or commissioners taking such lands tenements or hereditaments (such nomination and approbation to be signified in writing under the hands of the nominating and approving parties) in order that such principal money and the dividends and interest arising thereon may be applied in manner hereinbefore directed so far as the case be applicable

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without obtaining or being required to obtain the direction or approbation of the Court of Chancery.

Application of Compensation Money when less than 20*l.*

XCII. Provided also, and be it further enacted, That where such money so agreed or awarded to be paid as last before mentioned shall be less than twenty pounds, then and in all such cases the same shall be applied to the use of the person or persons who would for the time being have been entitled to the rents and profits of the lands tenements or hereditaments so purchased taken or used in such manner as the said trustees or commissioners or any three or more of them shall think fit; or in case of lunacy or infancy, then to his her or their guardian or guardians committee or committees to and for the use and benefit of such person or persons so entitled respectively.

If Compensation Money be refused, or the Titles to the Land cannot be made out satisfactorily, or if Persons cannot be found, then Money to be paid into the Bank, subject to the Order of the Court of Chancery on Motion or Petition.

XCIII. And be it further enacted, That in case the person or persons to whom any sum or sums of money shall be awarded for the purchase of any lands tenements or hereditaments to be purchased by virtue of this Act, shall refuse to accept the same or shall not be able to make a good title to the premises to the satisfaction of the trustees or commissioners or any three or more of them, or in case such person or persons to whom such sum or sums of money shall be so awarded as aforesaid cannot be found, or if the person or persons entitled to such lands tenements or hereditaments be not known or discovered, then and in every such case it shall and may be lawful to and for the trustees or commissioners or any three or more of them to order the said sum or sums of money so awarded as aforesaid to be paid into the bank of *England* in the name and with the privity of the said accountant general of the said Court of Chancery, to be placed to his account, to the credit of the parties interested in the said lands tenements or hereditaments (describing them) subject to the order controul and disposition of the said Court of Chancery, which said Court of Chancery, on the application of any person or persons making claim to such sum or sums of money or any part thereof by motion or petition, shall be and is hereby empowered in a summary way of proceeding or otherwise as to the said court shall seem meet to order the same to be laid out and invested in the public funds, and to order distribution thereof or payment of the dividends thereof, according to the respective estate or estates title or interest of the person or persons making claim thereunto, and to make such other order in the premises as to the said court shall seem just and reasonable; and the cashier or cashiers of the bank of *England* who shall receive such sum or sums of money is and are hereby required to give a receipt or receipts for such sum or sums of money, mentioning and specifying for what and for whose use the same is or are received to such person or persons as shall pay any sum or sums of money into the bank of *England* as aforesaid.

Persons in possession to be deemed lawfully entitled to the Premises, until the contrary shall be shown to the Court of Chancery.

XCIV. Provided always, and be it further enacted, That where any question shall arise touching the title of any person to any money to be paid into the bank of *England*, in the name and with the privity of the said accountant general of the said Court of Chancery, in pursuance of this Act, for the purchase of any lands tenements or hereditaments to be purchased in pursuance of this Act, or to any bank annuities to be purchased with any such money, or to the dividends or interest of any such bank annuities, the person or persons who shall have been in possession of such lands tenements or hereditaments at the time of such purchase, and all persons claiming under such person or persons or under the possession of such person or persons, shall be deemed and taken to have been lawfully entitled to such lands tenements or hereditaments, according to such possession, until the contrary shall be shown to the satisfaction of the said Court of Chancery; and the dividends or interest of the bank annuities to be purchased with such money and also the capital of such bank annuities, shall be applied and disposed of accordingly, unless it shall be made to appear to the said court that such possession was a wrongful possession, and that some other person or persons was or were lawfully entitled to such lands tenements or hereditaments, or to some estate or interest therein.

Court of Chancery to direct Payment of Expences in Cases where Purchases of other Lands are made.

XCV. Provided always, and be it further enacted, That where by rea-

son of any disability or incapacity of the person or persons or corporation entitled to any lands tenements or hereditaments to be purchased under the authority of this Act, the purchase money for the same shall be required to be paid into the Court of Chancery and to be applied in the purchase of other lands tenements or hereditaments to be settled to the like uses in pursuance of this Act, it shall be lawful for the said Court of Chancery to order the expences of all purchases from time to time to be made in pursuance of this Act, or so much of the said expences as the said court shall deem reasonable, together with the necessary costs and charges of obtaining such order, to be paid by the trustees or commissioners or any three or more of them who shall from time to time pay such sums of money for such purposes as the said court shall direct.

Trustees not to deviate more than 100 Yards from present Line of Road, nor make use of any Garden, &c. without consent of the Owner.

XCVI. And be it further enacted, That it shall not be lawful for the trustees or commissioners of any turnpike road, in altering or diverting the course of any part of the turnpike road under their care and management, to deviate over any inclosed lands or grounds more than one hundred yards from the line or course of such turnpike road, without the consent in writing of the owner or proprietor of such lands or grounds, or to take in or make use of any garden yard paddock park planted walk or avenue to a house, or any inclosed ground planted as an ornament or shelter to a house, or planted and set apart as a nursery for trees, or any part thereof respectively, without the like consent of the owner or proprietor thereof first had and obtained: Provided always, that nothing herein contained shall extend or be deemed taken or construed to extend to revoke limit abridge alter or vary any powers or authorities contained in any Act or Acts of Parliament existing and in force at the passing of this Act for making altering or diverting any turnpike road or roads or the course thereof, to be made altered or diverted and maintained under the authority of such Acts, but the same powers and authorities shall and may be used exercised and carried into effect by the trustees or commissioners appointed by such Acts fully and effectually, any thing herein contained to the contrary notwithstanding.

Power to get Materials from any River or Brook, or from any Common or Waste Lands, without Expence, filling up the Pits, &c.;

XCVII. And be it further enacted, That it shall be lawful for the surveyor or surveyors to the trustees or commissioners of every turnpike road, and for all such persons as he or they shall appoint, to search for dig gather take and carry away any materials for making or repairing any turnpike road out of any common river or brook (not being within fifty yards of any bridge dam weir or jetty) or out of or from any waste or common in any parish hamlet or place in which any part of such road may lie, or in any adjoining parish hamlet or place, and to haul and carry away any such materials, when got over any common or waste lands, without paying any thing for such materials, and without being deemed a trespasser or trespassers; the said surveyor or surveyors or other person or persons filling up the pits or quarries levelling the grounds or sloping down the banks wherefrom such materials shall be taken, or railing or fencing off such pits or quarries, so that the same shall not be dangerous to any persons or cattle; and paying or tendering for the damage done by going through and over any inclosed lands or grounds for or with such materials, and such damages to be ascertained as hereinafter mentioned; and also that it shall be lawful for the said surveyor or surveyors and such person or persons as he or they shall appoint, to search for dig get gather take and carry away any such materials in or out of the land of any person or persons where the same may be had or found, in any parish hamlet or place in which any part of such road shall lie or be situate, or in any adjoining parish hamlet or place (not being a garden yard park paddock planted walk or avenue to any house or any piece of ground planted and set apart as a nursery for trees) making or tendering such satisfaction for such materials and for the damage done to the owners or occupiers of the lands where and from whence the same shall be dug gathered and carried away or over which the same shall be carried as the said trustees or commissioners shall judge reasonable; and also to land on and carry through or over any

or from the lands of any person, not being garden ground, &c. on tendering satisfaction for Damages;

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inclosed lands or grounds (not being a garden yard park paddock planted walk or avenue to a house, or any piece of ground planted and set apart as a nursery for trees) or on through or over any open land or common any stone or other materials for making or repairing any such road, or for building or repairing any present or future toll house or toll houses on or by the sides thereof, from any river stream or canal in any parish hamlet or place in which any such road lies, or in any adjoining parish hamlet or place paying or tendering for the damage done in landing on or going through or over any inclosed lands or grounds for or with such materials, such sum or sums of money as the said trustees shall judge reasonable; and in case of any difference between such trustees or commissioners surveyors or other persons appointed or employed as aforesaid, and the owners and occupiers of such lands or any of them concerning such payments and damages as aforesaid, any two or more justices of the peace for the county riding or place wherein the place from whence such materials shall have been taken shall be situate, on ten days notice thereof being given in writing by either party to the other, shall hear settle and determine the matter of such payments and damages and the costs attending the hearing and determining the same.

and Materials may be carried through any inclosed or open Lands, on tendering damages.

Any Difference as to Damages may be settled by Two Justices.

Notice to be given before Materials are taken from private Lands, and Two Justices shall decide therein.

XCVIII. Provided always, and be it further enacted, That it shall not be lawful for any surveyor or any other person or persons acting under the authority of this Act, to dig gather get take or carry away any materials for making or repairing any turnpike road or for other such purpose or purposes as aforesaid, out of or from any inclosed land or ground, until notice in writing signed by the surveyor shall have been given to the owner or owners of the premises from which such materials are intended to be taken, or his or her known agent, or to the occupiers of the premises from which such materials are intended to be taken, or left at the house or last or usual place of abode of such owner or occupier, to appear before any two or more justices of the peace acting in and for the county liberty or place where the lands from whence such materials are intended to be taken shall lie, to show cause why such materials shall not be had therefrom; and in case such owner agent or occupier shall attend pursuant to such notice, but shall not show sufficient cause to the contrary, such justices shall, if they think proper, authorise such surveyor or other person to dig get gather take and carry away such materials at such time or times as to such justices shall seem proper; and if such owner agent or occupier shall neglect or refuse to appear by himself or herself, or his or her agent, the said justices shall and may (upon proof on oath of the service of such notice, and which oath they are hereby empowered to administer) make such order therein as they shall think fit, as fully and effectually to all intents and purposes as if such owner or occupier or his or her agent had attended.

If Pits or Holes are made in getting Materials, Surveyor shall cause them to be filled up or fenced off:

XCIX. And be it further enacted, That if any surveyor of any turnpike road or any person employed by him shall by reason of the searching for digging or getting any gravel sand stones chalk clay or other materials for repairing any highways, make or cause to be made any pit or hole in any common or other lands or grounds rivers or brooks as aforesaid, wherein such materials shall be found, the said surveyor shall forthwith cause the same to be sufficiently fenced off and such fence supported and repaired during such time as the said pit or hole shall continue open, and shall within three days after such pit or hole shall be opened or made where no gravel stones or materials shall be found cause the same forthwith to be filled up levelled and covered with the turf or clod which was dug out of the same; and where any such materials shall be found within fourteen days after having dug up sufficient materials in such pit or hole, if the same is not likely to be further useful, cause the same to be filled up sloped down or fenced off, and so continued; and if the same is likely to be further useful, the said surveyor shall secure the same by posts and rails or other fences to prevent accidents to persons or cattle; and in case such surveyor shall neglect to fill up slope down or fence off such pit or hole in manner and within the

Penalty for not filling up or fencing off, 20s.

time aforesaid, he or they shall forfeit the sum of twenty shillings for every such default; and in case such surveyor shall neglect to fence off such pit or hole or to slope down the same as hereinbefore directed for the space of six days after he or they shall have received notice for either of those purposes from any justice of the peace or from the owner or occupier of such several ground river or brook, or any person having right of common within such common or waste lands as aforesaid, and such neglect and notice shall be proved upon oath before one or more of the said justices of the peace, such surveyor shall forfeit and pay any sum not exceeding ten pounds, nor less than forty shillings for every such neglect, to be determined and adjudged by such justice or justices, and to be laid out and applied in the fencing off filling up or sloping down such pit or hole in such manner as the said justice or justices shall direct and appoint; which forfeiture, in case the same be not forthwith paid, shall be levied as other forfeitures are hereinafter directed to be levied.

Penalty for not fencing off, &c. in Six Days after receiving Notice, not more than 10*l.* nor less than 40*s*

C. Provided always, and be it further enacted, That it shall and may be lawful for the said trustees or commissioners to contract and agree with any person or persons whomsoever for the purchase or demise from him her or them of and to hold any land or ground for the purpose of digging stones gravel and materials therefrom for the repair or use of the said road, and at any time afterwards to sell the land or ground so purchased by public auction or tender; provided also, that the entering into any such contract or agreement as last aforesaid shall not be compulsory against any person or persons unwilling to enter into the same.

Power to contract for Lands to get Materials.

CI. And be it further enacted, That if any person or persons shall take away any materials which shall have been gotten dug or gathered for the repair or use of any turnpike road, or any materials out of any quarry which shall have been made dug or opened for the purpose of getting materials for any turnpike road, before the surveyor of such road and the workmen employed for getting such materials shall have discontinued working therein for the space of six weeks (except the owner or occupier of any private grounds and persons authorised by such owner or occupier to get materials in such quarry for his own private use and not for sale) every person so offending shall for every such offence forfeit and pay any sum not exceeding five pounds.

Penalty on taking away Materials before Surveyor has discontinued digging for them, 5*l.*

CII. And be it further enacted, That the trustees or commissioners of every turnpike road are hereby empowered to purchase or rent any piece or pieces of land or ground not exceeding in any one place six yards square on the sides of such road, as repositories for stone gravel and other materials for making or repairing the same; and in case any difference shall arise between such trustees or commissioners and the owner of such land or ground with respect to the value thereof, or the necessity or propriety of taking such land or ground, the same shall be settled and determined by any two of his Majesty's justices of the peace acting in and for the county where the said land or ground shall be situated, in manner hereinbefore directed with respect to getting materials for the repair of any turnpike road.

Repositories for Materials to be provided.

Two Justices shall settle any Difference that may arise as to Value.

CIII. And be it further enacted, That it shall and may be lawful for the company of proprietors or the trustee or trustees for the proprietors of any canal or of any railway or tramroad on which any flint gravel stone or other materials for the repair of any turnpike road shall or may be conveyed, and they are hereby authorised and empowered to lessen and reduce the tolls and rates imposed by any Act of Parliament by which any such company shall be appointed, or any other Act whatsoever, on the carriage of such flint gravel stone or other materials carried on the said canal or railway, and to appoint such lower tolls and rates to be taken for the carriage and conveyance of the same as the said company or trustees shall think proper; and all such reduced tolls shall and may be collected taken and recovered by the same persons and means and by and under the same powers provisions penalties and forfeitures as the original tolls might have been taken in case the same should not have been reduced; any Act or Acts of Parliament bye-law or ordinance or trust deed to the contrary notwithstanding.

Canal Companies may lower their Tolls on Materials for repairing Turnpike Roads.

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Statute Labour to remain as heretofore.

Two Justices to adjudge the Proportion of Statute Work to be done yearly, on Application of Trustees.

List of the Names of Persons liable to Statute Duty to be produced and laid before Justices.

CIV. And be it further enacted, That all persons who by law are or shall be liable to do statute work, or are or shall be chargeable towards the repairing and amending any turnpike road, shall be and remain liable thereto in like manner in every respect as they now are or have heretofore been; and it shall be lawful for any two or more justices of the peace in and for the county city or place in which any such turnpike road shall lie or be situate, and they are hereby required and empowered upon application made to them by any three or more of the trustees or commissioners or by their clerk or surveyor of such turnpike road, yearly to adjudge and determine what part or proportion of the statute work shall every year be done upon such road by the inhabitants of the respective parishes hamlets and places in or through which the said road doth or shall lie lead or pass, and also what proportion of the money received by the surveyor or surveyors of the highways of every such parish hamlet or place in lieu of or as a composition for such statute work as aforesaid, shall be by him her or them paid to the said trustees or commissioners or their treasurer or treasurers; and in order thereunto the surveyor or surveyors of the highways for every such parish hamlet or place shall on an order in writing made by the said justices on an application to them by the trustees or commissioners of the turnpike road, or any three or more of them, or by their clerk or surveyor, and respectively delivered to such surveyor or surveyors of the highways, or left at his or their last or usual place of abode, bring and deliver within ten days afterwards to the said turnpike surveyor, or to his place of abode, true and perfect lists in writing of the names of the several persons who within such parish hamlet or place are by law subject and liable to do statute work for that year, or to the payment of any money in lieu of or as a composition for such statute work, distinguishing the nature of the work to be done, whether with teams or draughts or otherwise, and also the amount of the respective sums to be paid; which lists of names shall be made in such manner and under such regulations and restrictions as are or may be directed by any law or statute in force or effect for the repairs of the public highways, and may be made in the form specified in the schedule to this Act; and the said turnpike surveyor having received such lists shall within five days afterwards give a notice to the surveyor or surveyors of the highways of the time when such lists will be laid before the said justices, in order to apportion the said statute duty; and at the time appointed in and by such notice the said lists shall be laid before the said justices by the said turnpike surveyor in the presence of the said surveyor of the highways (if he shall attend);

Justices shall appoint so many Persons to do Statute Work as they think reasonable, and appoint the Composition to be paid by others.

and out of such lists the said justices shall and may allot appoint and order such and so many of the persons who shall appear to be subject and liable to do statute work in every year upon such road as the said justices shall think reasonable; and the same shall be done on such days and at such time (not being haytime or harvest) and on such parts of the said road as the said trustees or commissioners or their surveyor or surveyors shall from time to time order direct or appoint; and the said justices shall and may order and direct the persons who by such lists shall be subject and liable to the payment of any money in lieu of or as a composition for the statute work as aforesaid, to pay such proportion thereof as the said justices shall think proper to the surveyor or surveyors of such parishes hamlets and places respectively, to be by him or them paid over to the said trustees or commissioners, or their treasurer or other person duly authorised to receive the same, at such time or times as the said justices shall direct; and in default of payment thereof, the same shall and may be recovered by distress and sale of the goods and chattels of the respective persons liable to the payment thereof in like manner as any penalty is by this Act authorised or directed to be recovered;

Penalty on Persons neglecting to do Statute Work.

and each and every person who shall neglect or refuse to do such statute work as aforesaid, after notice in writing given to or left for him her or them at his her or their last or usual place or places of abode for that purpose, by any surveyor to the said trustees or commissioners, shall for every day of his her or their default or the default of any labourer or

labourers team or teams draught or draughts horse or horses beast or beasts to be provided by him her or them, be subject and liable to such fines penalties and forfeitures as such person or persons may be subject or liable to by any law or statute now in force or effect for repair of the public highways; and if any person who shall come to work as a labourer or shall be sent with any team or draught to work on any part of such road shall be found idle or negligent by any surveyor to the said trustees or commissioners, such surveyor is hereby empowered to remove and dismiss the person who shall be so found idle or negligent as aforesaid, and in that case every such person shall be subject and liable to the respective forfeitures and payments as aforesaid as if he had neglected or refused to come or such team or draught had not been sent to work on any part of such road; all which forfeitures shall be paid to the treasurer of the said trustees or commissioners, and applied towards amending the said road; and in case the surveyor or surveyors of the highways for any of said parishes hamlets or places shall refuse or wilfully neglect to give in any such lists as aforesaid, or shall knowingly or wilfully give in false and imperfect lists, or shall refuse or neglect to collect or pay over such composition money or any part thereof in manner aforesaid, every such surveyor so offending shall for every such offence forfeit and pay any sum not exceeding ten pounds.

Idle Persons to be dismissed, and be subject to Penalty.

Penalty on Surveyors neglecting to give in Lists, not exceeding 10*l.*

CV. And be it further enacted, That it shall be lawful for the trustees or commissioners of every turnpike road to compound and agree with any person or persons bodies politick or corporate for the repairs or statute work to be by him her or them done on any such turnpike road, and also with the surveyor or surveyors of the highways for any of the parishes hamlets or places in which the said road doth or shall lie and be situate for a certain sum of money by the year or otherwise as the said trustees or commissioners shall think reasonable, in lieu of the whole or any part of the statute work or other work to be by all or any of the said inhabitants and occupiers done on the said road, which composition money shall always be paid by the surveyor or surveyors of the highways or other officer of the parish hamlet or place or by the person or persons so compounding to the treasurer of the trustees or commissioners in advance on or before the twenty-ninth day of *September* in each and every year, or otherwise such person or persons bodies politick or corporate or inhabitants and occupiers within such parish hamlet or place shall not be permitted to compound for that year; and all such composition money shall be applied for the purposes of such turnpike road; and that every such surveyor of the highways who shall pay any such composition money shall be reimbursed the same in like manner as surveyors of the highways are by the laws in being to be reimbursed the money by them laid out and expended in buying materials for the repairing of any other highway or highways.

Statute Work may be compounded for.

CVI. And be it further enacted, That it shall and may be lawful for the trustees or commissioners of any turnpike roads to contract and agree with any person or persons liable to the repair of any part of the road under the care and management of such trustees or commissioners, or of any bridges thereon by tenure or otherwise for the repair thereof, for such term as they shall think proper, not exceeding three years, and to contribute towards the repair of such road or bridges such sum or sums of money as they shall think proper out of the tolls arising on such turnpike road.

Trustees may contract with Persons liable to the Repairs of Roads by Tenure.

CVII. And whereas many bridges on turnpike roads are by prescription at present liable to be repaired by certain parishes, and not by the county or counties in which they are situated, and which bridges from change of times and circumstances are become no longer sufficiently convenient for the use of the public without being enlarged or otherwise improved; be it therefore further enacted, That it shall and may be lawful for any such county or counties parish or parishes respectively to enter into a composition or agreement with each other, and by the authority of those persons who shall be legally competent to make rates for such county and parish respectively, whereby the improvement and future

Composition may be entered into by Counties for repairing Bridges repaired by Parishes.

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repair of any such bridge shall be undertaken and lie upon the county or counties in which such bridge is locally situated; and that all rates made for carrying into effect any such composition agreement repairs or improvement shall be made and assessed in the same manner as other the rates of such county or parish respectively, and shall be good and valid to all intents and purposes in the law whatsoever.

Compositions may be entered into by Trustees and Parishes for Repair of Bridges.

CVIII. And be it further enacted, That it shall and may be lawful for the trustees or commissioners of any turnpike road and for such parish or parishes in like manner to enter into a composition or agreement with each other, and by the authority of the persons at present legally competent to make rates for such parish or parishes, whereby in consideration of such sum or sums of money as shall be agreed upon being yearly paid to the treasurer of the trustees or commissioners entering into such composition or agreement out of the rates to be raised for the repair of the bridge or bridges the subject thereof, the repairs of any such bridge shall during the continuance of any Act or Acts of Parliament under which such trustees or commissioners shall be appointed or act be undertaken and carried on by the said trustees or commissioners; and that all rates and assessments raised and levied for carrying such composition or agreement into effect shall in like manner be good and valid to all intents and purposes whatsoever.

Where the Repairs and Revenues of a Turnpike Road shall be such as that Statute Labour will not be required for such Road, Justices may dispense with it.

CIX. And whereas there are or may be turnpike roads in such a state and condition with regard to their repairs and the revenues arising upon them, that the statute duty required to be performed upon the same may be in the whole or in part dispensed with, and employed more advantageously for the benefit of the other public highways within the parish township or place liable to the performance of such duty; be it therefore enacted, That it shall and may be lawful for the justices of the peace at any special sessions upon application to them made by the surveyor of the highways or by any two inhabitants of any parish township or place, to summon before them the clerk and surveyor of any turnpike road within such parish township or place alleged to be in the situation before described, and then and there to produce before them a state of the revenues and debts of such turnpike road, and for such justices to inquire into the state and condition of the repairs thereof, and also of the repairs of such other highways; and if it shall appear to the said justices upon full and clear evidence that the whole or any part of such statute duty may be conveniently dispensed with from such turnpike road without endangering the securities for the monies advanced upon the credit of the tolls thereof, and that such statute duty is wanted for the repairs of the other highways within such parish township or place, then and in that case it shall and may be lawful for the said justices to order the whole or part of such statute duty to be performed upon the highways not being turnpike within such parish township or place under the direction of the surveyor thereof, during such time as to them shall seem reasonable, and the same shall be performed accordingly.

Where Parish indicted for Non-repair of a Turnpike Road, the Court to apportion the Fine between the Parish and the Trustees or Commissioners.

CX. And be it further enacted, That when the inhabitants of any parish township or place shall be indicted or presented for not repairing any highway being turnpike road, and the court before whom such indictment or presentment shall be preferred shall impose a fine for the repair of such road, such fine shall be apportioned, together with the costs and charges attending the same between the inhabitants of such parish township or place and the trustees or commissioners of such turnpike road, in such manner as to the said court upon consideration of the circumstances of the case shall seem just; and it shall and may be lawful for such court to order the treasurer of such turnpike road to pay the sum so proportioned for such turnpike road out of the money then in his hands or next to be received by him, in case it shall appear to such court from the circumstances of such turnpike debts and revenues, that the same may be paid without endangering the securities of the creditors who have advanced their money upon the credit of the tolls to be raised thereupon, which order shall be binding upon such treasurer, and he is hereby authorised and required to obey the same.

CXI. And be it further enacted, That it shall be lawful for the trustees or commissioners to make and keep in repair, or cause to be made and kept in repair, any causeway or causeways for the use of foot passengers in upon or on the sides of the turnpike road in such manner as they shall think proper; and also to make or cause to be made a road through the grounds adjoining to any ruinous or narrow part of any turnpike road, (not being the site or ground whereon any house or houses stand, nor being a yard garden park paddock planted walk or avenue to any house, or any inclosed ground planted and set apart as a nursery for trees,) to be made use of by all passengers cattle and carriages as a public highway, whilst the old road is repairing or widening, and till such time as it shall be convenient for passengers and carriages to pass along the same, making such recompence to the owners and occupiers of such private grounds respectively for the damages they shall or may thereby sustain, as shall be adjudged reasonable by the trustees or commissioners of the road under repair or alteration; and in case of any difference concerning such damages between such owners or occupiers and such trustees or commissioners, that then it shall and may be lawful for any two or more justices of the peace acting in and for the county wherein such grounds shall be situate, on fourteen days notice in writing being given by either party to the other, to settle adjudge and finally determine what recompence shall be made to such owners and occupiers, for the damages they shall have sustained as aforesaid.

Power to make Causeways,

Where Turnpike Road is ruinous, Roads may be made through adjoining Grounds.

Recompence to be made to Owners for Damages.

In case of Difference, Two Justices shall settle it.

CXII. Provided always, and be it further enacted, That nothing herein contained as to the making or maintaining any causeway or footpath, or any other matter or provision in this Act, shall extend or be deemed or construed to extend to authorise or empower any trustees or commissioners of any turnpike road to lay down continue repair or maintain any pavement or any paved or pitched causeway or footpath, in or upon or at the side of any turnpike road within any town village or hamlet where such turnpike road shall pass through the same, unless provision shall have been or shall be specially made for that purpose in the Act or Acts of Parliament under which such turnpike road shall be made maintained or repaired; but in default of such provision all and every such pavement paved or pitched causeway or footpath, within such town village or hamlet shall be made repaired and maintained, by and at the costs of the inhabitants of such town village or hamlet, or by such other persons as shall be in anywise liable to make maintain and repair the same.

Trustees not empowered to repair Causeways unless specially authorised.

CXIII. And be it further enacted, That ditches drains or watercourses of a sufficient depth and breadth, for the keeping all turnpike roads dry and conveying the water from the same, shall be made scoured cleansed and kept open, and sufficient trunks tunnels plats or bridges shall be made and laid where any carriage-ways or footways lead out of the said turnpike roads into the lands or grounds adjoining thereto, by the occupier or occupiers of such lands or grounds; and every person or persons who shall occupy any lands or grounds adjoining to or lying near such turnpike road through which the water hath used to pass from the said turnpike road, shall and is and are hereby required from time to time as often as occasion shall be, to open cleanse and scour the ditches watercourses and drains for such water to pass without obstruction; and that every person making default in any of the matters or things aforesaid, after ten days notice to him her or them given, shall for every such offence forfeit any sum not exceeding five pounds.

Ditches, &c. of sufficient Depth and Breadth shall be made by the Occupiers of Lands for keeping the Roads dry.

Penalty on Default, not exceeding 5*l.*

CXIV. And be it further enacted, That it shall be lawful for the surveyor of every turnpike road and such person as he or they shall appoint, to remove and prevent all annoyances on every part of every turnpike road, by filth dung ashes rubbish or any other matter or thing whatsoever being laid or thrown upon any turnpike road, or upon any open common or waste land within eighty feet of the centre thereof, and to dispose of the same for the benefit of such road, in case the owner thereof shall neglect to remove the same within twelve hours after notice in writing, signed by any two trustees or the surveyor of such road, given to such owner for that purpose, or in case the owner is not known, then

For removing and preventing Annoyances.

No. I.
3 Geo. IV.
c. 126.

after a like notice affixed for three days on the nearest turnpike gate; and to turn any watercourses sinks or drains running into along or out of any turnpike road or any part thereof to the prejudice of the same, and to open scour and cleanse any watercourses or ditches adjoining to any turnpike road, and make the same as deep and large as he shall think proper and necessary, in case the owners or occupiers of the adjoining lands shall neglect to open scour or cleanse such watercourses or ditches after seven days notice in writing given for that purpose; and the charges thereof and of removing any annoyances, to be settled by any one or more justices of the peace of the county or place where such part of the turnpike road shall lie, shall be reimbursed to the said surveyor by such owners or occupiers, and the same shall be recovered in such manner as the penalties and forfeitures are hereinafter directed to be recovered; and if after the removal of any of the said annoyances any person shall again offend in the like kind, every such person shall for every such offence forfeit and pay any sum not exceeding five pounds.

Watercourses and Drains may be turned.

Penalty for a Second Offence 5*l.*

Expences of repairing Drains, &c. in Towns to be defrayed equally between the Trustees and the Inhabitants.

CXV. And be it further enacted, That in all cases where any gutter drain sink sewer or underdrain made or hereafter to be made under or at the sides or near any turnpike road, shall be used as well for the conveyance of the water from such turnpike road, as for conveying water filth or other matters from the houses or premises of the inhabitants of any town hamlet village street or place, and no specific mode of repair or persons liable to the expences of maintaining the same shall be appointed, the expence of maintaining and repairing such gutter drain sink sewer or underdrain, shall be borne and defrayed equally or in proportions by the trustees or commissioners of such turnpike road and the inhabitants of the town hamlet village street or place using the same; and in order to ascertain the proportion and recover such expences, the surveyor of the turnpike road under or at the sides or near to which such gutter drain sink sewer or underdrain shall be situated, shall as often as shall be requisite repair the same, and shall then make out an account of the costs and expences of such reparation, and produce the same to any two or more justices of the peace acting for the county or place where such gutter drain sink sewer or underdrain or so much thereof as shall be repaired shall lie; and it shall and may be lawful for the said justices, and they are hereby authorised and empowered to examine the accounts and statements to be produced to them, and to inquire as to the persons using such gutter drain sink sewer or underdrain, and to proportion the amount to be paid by the trustees or commissioners of the turnpike road, and by the inhabitants and persons using such gutter drain sink sewer or underdrain respectively, and to fix and ascertain the amount of such proportion as they the said justices shall deem just and reasonable, to be paid by the said several parties respectively; and if any person or persons shall neglect or refuse to pay the sum directed by the said justices to be paid by him her or them, the same shall be levied by distress and sale of the goods and chattels of the person or persons so neglecting or refusing, by a warrant under the hands and seals of any two or more justices of the peace, acting for the county or place where such person or persons shall reside.

An Account of the Expence of Repairs to be laid before Two Justices, who shall proportion the Amount to be paid by the Parties.

Owners of adjoining Lands to cut the Hedges and Branches of Trees obstructing the Road.

CXVI. And be it further enacted, That the owners or occupiers of the land next adjoining to every turnpike road shall cut prune and trim their hedges to the height of six feet from the surface of the ground, and also cut down prune or lop the branches of trees bushes and shrubs growing in or near such hedges or other fences adjacent thereto (such fences trees bushes or shrubs not being in any garden orchard plantation walk or avenue to a house, nor any tree bush or shrub being an ornament or shelter to a house, unless the same shall hang over the road or any part thereof, in such a manner as to impede or annoy any carriage or person travelling thereon) in such manner that the turnpike road shall not be prejudiced by the shade thereof, and that the sun and wind may not be excluded from such turnpike road to the damage thereof; and that if such owner or occupier shall not within ten days after notice given by the surveyor for that purpose cut prune and trim such hedges

If neglected for Ten Days,

or cut down prune or trim such branches of trees bushes and shrubs in manner aforesaid, it shall and may be lawful for the said surveyor and he is hereby required to make complaint thereof to some justice of the limit where such turnpike road shall lie, who shall summon the occupier of such lands before him to answer the said complaint; and if it shall appear to such justice that such occupier has not complied with the requisites of this Act in that behalf, it shall and may be lawful for such justice upon hearing the surveyor and occupier of such land or his agent (or in default of his or her appearance upon having due proof of the service of such summons) and considering the circumstances of the case to order such hedges to be cut trimmed and pruned, and such branches of trees bushes and shrubs to be cut down or pruned or trimmed in such manner as may best answer the purposes aforesaid; and if the occupier of such lands shall not obey such order within ten days after it shall have been made, and he or she shall have had due notice thereof, he or she shall forfeit the sum of two shillings for every twenty-four feet in length of such hedge which shall be so neglected to be cut trimmed and pruned, and the sum of twopence for every tree bush or shrub which shall be so directed to be cut down pruned or trimmed; and the surveyor in case of such default made by the occupier shall and he is hereby required to cut prune and trim such hedges and to cut down prune or trim such branches of trees bushes and shrubs in the manner directed by such order, and such occupier shall be charged with and pay over and above the said penalties the charges and expences of doing the same, or in default thereof, such charges and expences shall be levied together with the said forfeitures upon his or her goods and chattels by warrant from a justice of the peace, in such manner as is authorised for forfeitures incurred by virtue of this Act.

Surveyor may complain to a Justice, who may order the same to be done on Pain of forfeiting 2s. for every 24 Feet in Length of the Hedge.

Hedges, &c. may be trimmed at the Expence of Defaulter.

CXVII. Provided always, and be it further enacted, That no person or persons shall be compelled nor any surveyor permitted by virtue of this Act to cut or prune any hedge at any other time than between the last day of *September* and the last day of *March*.

Time of cutting Hedges and Trees.

CXVIII. And be it further enacted, That if any person shall make or cause to be made any dwelling house or other building or any hedge or other fence on or at the sides of any turnpike road in such manner as to reduce the breadth or confine the limits thereof, or shall fill up or obstruct any ditch at the side thereof; or shall make or cause to be made any dwelling house or other building or any hedge or other fence on any common or waste land on the side or sides of any turnpike road within the distance of thirty feet, if within three miles of any market town, or if beyond that distance, within twenty-five feet from the middle or centre thereof; or shall make any drain gutter sink or watercourse across or otherwise break up or injure the surface of any turnpike road or of any part thereof; or shall plough harrow or break up the soil of any land or ground, or in ploughing or harrowing the adjacent lands shall turn his or their plough or harrow in or upon any land or ground within the distances aforesaid from the middle or centre of any turnpike road made or to be made, or make any other encroachment on any turnpike road within the distances aforesaid from the middle or centre thereof; every person so offending shall forfeit for every such offence forty shillings to such person as shall make information of the same; and it shall be lawful for the trustees or commissioners who have the care of any such road to cause such dwelling house or other building hedge ditch or fence drain sink watercourse gutter or other encroachment to be taken down or filled up, or where any ditch shall be filled up or obstructed to be opened and cleansed at the expence of the person or persons to whom the same shall belong; and it shall and may be lawful for any one or more justice or justices of the peace of the county where such offence shall be committed, upon proof thereof to him or them made upon oath to levy as well the expences of taking down or filling up or cleansing such dwelling house or other building hedges ditches drains or other encroachments as aforesaid, as the several and respective penalties hereby imposed, by distress and sale of the offender's goods and chattels, rendering the overplus (if any) to the owner on demand.

Persons making Encroachments on the Roads by reducing the Breadth or narrowing the Limits thereof; or making Drains across or otherwise injuring the Roads; or turning the Plough on the Ground within a certain Distance of the Road, shall forfeit 40s.

Encroachments to be removed.

No. 1.
3 Geo. IV.
c. 126.

Milestones and Direction Posts to be erected.

Names of Towns and Villages to be put up at the Entrance, and Stones to mark the Boundaries of Parishes.

Penalty for defacing them, not exceeding 10*l.*

CXIX. And be it further enacted, That the said trustees or commissioners shall cause stones or posts to be set up or placed in or near the sides of every turnpike road, at the distance of one mile from each other, denoting the distance of any and every such stone or post from any town or place, and also such direction post at the several roads leading out of any such road, or at any crossings turnings or terminations thereof, with such inscriptions thereon denoting to what place or places the said roads respectively lead, of such height or size, and to be erected in such situations as they the said trustees or commissioners shall think proper; and also to cause to be painted in legible characters on some wall or board at the entrance of every town or village, the name of such town or village, and shall also cause stones to be put up marking the boundaries of parishes where such boundaries shall cross any turnpike road, and from time to time to repair or renew such stones posts and boards, and keep and continue legible the inscriptions on such stones posts walls and boards respectively; and if any person or persons shall wilfully break cut down pull up or damage any such posts stones or boards, or shall obliterate deface spoil or destroy all or any of the letters figures or marks which shall be inscribed or painted thereon or on any such walls, and be thereof convicted before any justice of the peace for the county city or place where such offence shall be committed by the confession of the party or by the oath of one credible witness, such person or persons so offending shall forfeit and pay any sum not exceeding ten pounds for every such offence.

Extending Time for watering Roads.

CXX. And whereas by several Acts of Parliament relating to particular turnpike roads power is given to the trustees to water the roads during certain months in the year, and to take additional tolls on account of the said watering, and the time specified in such Acts has been found in many instances too limited to afford to the public all the advantages which might be derived from watering the said roads; be it further enacted, That wherever an Act or Acts has or have been passed to enable the trustees of any turnpike road or roads to water the same or any part thereof, and to take an additional toll for such watering during a limited time in the said Act or Acts specified, it shall and may be lawful for the trustees of the said road or roads, at any general meeting held for that purpose, to order that such part of the said road or roads as by the local Act or Acts relating to the same is allowed or directed to be watered, and a certain additional toll to be taken for such watering, shall be watered, and the said additional toll for watering the same may be demanded and taken for any time between the first day of *March* in every year, and the first day of *November* following; and the said trustees shall have and they are hereby authorised to exercise and enforce all the powers authorities remedies and penalties for collecting the said additional tolls for watering the roads during the time aforesaid, as they now by law have for any other tolls which may be demanded and collected on the said roads.

Penalty on Persons committing Nuisances by riding on Footpaths, or damaging Bridge, &c.;

by drawing Timber, &c.

by injuring the Road;

by slaughtering of Cattle;

CXXI. And be it further enacted, That if any person or persons shall ride upon any footpath or causeway by the side of any turnpike road made or set apart for the use or accommodation of foot passengers, or shall lead or drive any horse ass mule swine or cattle or carriage of any description, or any wheelbarrow truck or sledge, or any single wheel of any waggon cart or carriage apart therefrom, upon any such footpath or causeway, or shall cause any injury or damage to be done to the same or the hedges posts rails or fences thereof, or shall wilfully pull down or damage any bridge wall or any other building or erection made by the trustees or commissioners of any turnpike road or repaired or repairable by them; or shall haul or draw or cause to be hauled or drawn upon any part of such turnpike road any timber stone or other thing otherwise than upon wheeled carriages, or shall suffer any timber stone or other thing which shall be carried principally or in part upon wheeled carriages to drag or trail upon such road to the prejudice thereof; or shall use any tipstick joggle or other instrument for the purpose of retarding the descent of any cart or other carriage down any hill in such manner as to destroy injure or disturb the surface of any turnpike road; or shall in or

No. I.
3 Geo. IV. c. 126.

upon such road or by the side or sides thereof, or in any exposed situation near thereto, kill slaughter singe scald burn dress or cut up any beast swine calf lamb or other cattle; or if any person driving any horse or other beast on the said road carrying any iron bar or rod basket or pannier or any other matter or thing shall place such bar or rod basket or pannier matter or thing so that the same or any of them shall project more than thirty inches from the side of such horse or other beast, or so as in any manner to obstruct or impede the passage of any person or any horse beast or carriage travelling along such turnpike road; or if any hawker higler gipsy or other person or persons travelling with any machine vehicle cart or other carriage with or without any horse mule or ass shall pitch any tent booth stall or stand or encamp upon or by the sides of any part of any turnpike road; or if any blacksmith or other person occupying a blacksmith's shop situate near any turnpike road and having a window or windows fronting the said road shall not by good and close shutters every evening after it becomes twilight bar and prevent the light from such shop shining into or upon the said road; or if any person or persons shall make or assist in making any fire or fires commonly called bonfires, or shall set fire to or wantonly let off or throw any squib rocket serpent or other firework whatsoever within eighty feet of the centre of such road; or bait or run for the purpose of baiting any bull, or play at football tennis fives cricket or any other game or games upon such road or on the side or sides thereof, or in any exposed situation near thereto, to the annoyance of any passenger or passengers; or if any person shall leave any waggon wain cart or other carriage whatever upon such road or on the side or sides thereof without any proper person in the sole custody or care thereof longer than may be necessary to load or unload the same, except in cases of accident and in cases of accident for a longer time than may be necessary to remove the same, or shall not place such waggon wain or other carriage during the time of loading or unloading the same or of taking refreshment as near to one side of the road as conveniently may be, either with or without any horse or beast of draught harnessed or yoked thereto; or shall lay any timber stone hay straw dung manure soil ashes rubbish or other matter or thing whatsoever upon such road or on the side or sides thereof or the footpaths or causeways adjoining, to the prejudice of such road or footways or to the prejudice annoyance interruption or personal danger of any person or persons travelling thereon; or shall suffer any water filth dirt or other offensive matter or thing whatsoever to run or flow into or upon such road or footpaths from any house building erection lands or premises adjacent thereto; or if any person driving any pigs or swine upon such road shall suffer such pigs or swine to root up or damage such road or the fences hedges banks or copse on either side thereof respectively; or if any person shall after having blocked or stopped any cart waggon or other carriage in going up a hill or rising ground cause or suffer to be or remain on such road the stone or other thing with which such cart or other carriage shall have been blocked or stopped; or if any person or persons shall pull down damage injure or destroy any lamp or lamp post put up erected or placed in or near the side of any turnpike road or toll house erected thereon, or shall extinguish the light of any such lamp, every person offending in any of the cases aforesaid shall for each and every such offence forfeit and pay any sum not exceeding forty shillings, over and above the damages occasioned thereby.

by obstructing Passage of Travellers; by Light of Blacksmiths' Shops; by making Bonfires; by baiting Bulls, playing at Football, or other Games; by leaving Waggons, &c.; by layin gTimber, &c.; by running of Water or Filth; by Swine; by leaving Block Stones, &c.; or by damaging Lamps.

CXXII. And be it further enacted, That if any horse ass sheep swine or other beast or cattle of any kind shall at any time be found wandering straying or lying about any turnpike road or across any part thereof or by the sides thereof (except on such parts of any road as lead or pass through or over any common or waste or uninclosed ground) it shall and may be lawful for any surveyor of the road where the same shall be found, or any other person or persons whomsoever, to seize and impound every such horse ass sheep swine or other beast or cattle in the common pound of the parish township tithing or place where the same shall be, or in such other place as the trustees or commissioners of the road where the same

Surveyors to impound Cattle found straying on the Roads.

No. I.
3 Geo. IV.
c. 126.

shall be found shall have provided for that purpose; and the said horse ass sheep swine or other beast or cattle there to detain until the owner or owners thereof shall for every and each horse ass sheep swine or other beast or cattle so impounded pay the sum of five shillings to the person impounding the same, together with the reasonable charges and expences of impounding and keeping the same; and in case the said penalty charges and expences shall not be paid within four days after such impounding, it shall and may be lawful for the surveyor of the road on which the same shall have been seized to sell or cause to be sold every such horse ass sheep swine or other beast or cattle; and the money arising from such sale after deducting the said penalty and charges and expences of impounding keeping and selling every such horse ass sheep or swine or other beast or cattle shall be paid to the person whose property the same so sold shall appear to have been.

Owner to pay 5s. for every Beast impounded, besides Charges.

Punishing Persons guilty of Pound-breach.

CXXIII. And be it further enacted, That in case any person or persons shall release or attempt to release any cow horse ass swine or other live stock or cattle which shall be seized for the purpose of being impounded under the authority of this Act, from the pound or place where the same shall be so impounded, or shall pull down damage or destroy the same pound or place or any part thereof or any lock or bolt belonging thereto or with which the same shall be fastened, or shall rescue or release or attempt to rescue or release any distress or levy which shall be made under the authority of this Act, until or before such cow horse ass swine or other live stock or cattle seized or so impounded or such distress or levy so made shall be discharged by due course of law, every person so offending shall upon conviction thereof before any one of his Majesty's justices of the peace for the county or place where the offence shall have been committed, either upon confession of the party or parties offending or upon the oath of one credible witness, and which oath the said justice is hereby authorised and empowed to administer, be committed by such justice by warrant under his hand and seal to the common gaol or house of correction of such of the said counties wherein the said offence shall have been committed, there to remain without bail or mainprize for any time not exceding three calendar months.

What shall be deemed the Centre of the Road.

CXXIV. And whereas doubts may arise as to what is to be deemed the road or the centre of the road; be it therefore enacted, That where in this or any other Act of Parliament relating to turnpike roads, any matter or thing is directed or forbidden to be done within a certain distance of the centre of the road, that portion of ground shall be deemed and taken to be the road which has been maintained by the trustees or commissioners as hard road, and repaired with stones gravel or other materials used in forming roads, for six months immediately preceding any offence committed against such regulations; and the centre of the road shall be the middle of such hard road, where a line being drawn along the road or a point marked, an equal number of feet of hard road which have been so maintained and repaired as aforesaid for six months before shall be found on each side of such line or mark: Provided always, that nothing herein contained shall authorise any person or persons to inclose or make any encroachment on any waste lands or grounds lying on the side of any turnpike road, being part of the highway and over which the king's subjects have been used and accustomed to pass; but every person who shall inclose such waste lands and grounds or obstruct the right of passage over the same shall continue and be subject to the same process and penalties as if this Act had not been made.

No Encroachment to be made on the Waste Lands lying on the Side of any Road.

Gates to open inwards.

CXXV. And be it further enacted, That no door or gate of any building park paddock field or inclosure whatsoever shall be made to open into or towards any part of any turnpike road or of any footpath belonging thereto, or be suffered to continue so to open, except the hanging post thereof shall be fixed or placed so far from the centre of any part of such turnpike road as that no part of such door or gate shall when open project over any part of such turnpike road or any footpaths belonging thereto and the occupier or occupiers of any part building park paddock field or

inclosure having any door or gate opening outwards contrary to the meaning of this Act, shall within fourteen days after notice to him her or them given, either personally or in writing from the surveyor of any turnpike road cause such door or gate to be hung so that no part of the same when open shall project over any part of such turnpike road or any footpath belonging thereto; and in default thereof, the surveyor of the said turnpike road is hereby authorised to cause the door or gate to be hung according to the intention of this Act; and the person or persons guilty of such neglect or default shall upon complaint made to any justice or justices of the peace acting in and for the county or place where such neglect shall appear, and upon conviction upon the oath of one credible witness pay to such surveyor such sum as the said justice or justices shall direct to defray the expence of making the alteration and hanging such door or gate, and shall also forfeit and pay a further sum not exceeding forty shillings for his her or their neglect therein, to be fixed by and at the discretion of the justice or justices before whom such conviction shall be made.

Gates opening outwards to be removed.

Owner to pay the Expence of Removal, and forfeit not exceeding 40s.

CXXVI. And be it further enacted, That it shall and may be lawful to and for the trustees or commissioners of every turnpike road, at any meeting to be held for that purpose, on ten days notice in writing of such meeting being affixed upon the turnpike gates on the road, and they are hereby authorised and empowered from time to time, as they shall think fit, to order and direct that in all cases where any waggon or cart shall descend any hill or hills on the said road with either of the wheels locked, a skid-pan or slipper shall be used or placed at the bottom of 'such wheel during the whole time of its being so locked, in such manner as to prevent the said road from being destroyed or injured by the locking of such wheel; and that it shall and may be lawful for the said trustees or commissioners from time to time to repeal alter or renew such order as they shall think necessary; and that whilst any such order so to be made as aforesaid shall be in force, all and every person or persons who shall drive or act as the driver of any waggon or cart down any hill or hills with either of the wheels locked and without using or having such skid-pan or slipper at the bottom of such wheel in manner aforesaid, shall for every such offence forfeit and pay any sum not exceeding twenty shillings: Provided always, that a copy of such order shall be affixed on all the turnpikes standing on such road for thirty days at least before the same shall be in force.

Directing the using of Skid-pans or Slippers.

Penalty on Driver not using them, not exceeding 20s.

CXXVII. And be it further enacted, That no person shall hereafter erect or cause any windmill to be erected within the distance of two hundred yards from any part of any turnpike road, under the penalty of five pounds for each and every day such windmill shall continue: Provided always, that nothing herein contained shall be construed to render legal the re-erection or continuance of any windmill in any case where by the common law such windmill shall be a public or private nuisance.

No Windmill to be erected within 200 Yards of the Turnpike Road, on Penalty of 5*l.*

CXXVIII. And be it further enacted, That if any person or persons whatsoever shall wilfully or maliciously pull down pluck up throw down level or otherwise destroy or damage any turnpike gate or any chain rail post or bar or other fence or fences belonging to any turnpike gate, or any other chain bar or fence of any kind whatsoever, set up or erected or hereafter to be set up or erected to prevent passengers passing by without paying any toll directed to be paid by any Act or Acts of Parliament relating thereto, or any house or houses erected or to be erected for the use of any such turnpike gate or turnpike gates or any weighing engine; or shall forcibly rescue any person or persons being lawfully in custody of any officer or other person for any of the offences before mentioned; that then and in any of the said cases every person so offending being thereof lawfully convicted shall be adjudged guilty of felony, and shall be transported to one of his Majesty's plantations abroad for seven years, or in mitigation thereof shall suffer such other punishment as the court may direct as in cases of petit larceny.

Punishment of Persons maliciously destroying Turnpike Gates, &c.

No I.
3 Geo. IV.
c. 126.

For Discovery of Offenders:

Names of Owners to be painted on Waggons or other Carriages in the Manner herein mentioned.

CXXIX. And for the better discovery of offenders, be it further enacted, That the owner or owners of every waggon wain or cart, and also of every coach post chaise or other carriage, let either in the whole or in part to hire, shall paint or cause to be painted in a straight line upon some conspicuous part of his waggon wain or cart, or upon the shafts thereof, and upon the pannels of the doors of all such coaches post chaises or other carriages before the same shall be used upon any turnpike road his her or their christian and surname and the place of his her or their abode, or the christian and surname and place of abode of the principal partner or owner thereof in large legible letters not less than half an inch in height, and continue the same thereupon so long as such waggon cart coach post chaise or other carriage shall be used upon any such turnpike road; and the owner of every common stage waggon or cart employed in travelling stages from town to town shall over and above his or her christian and surname paint or cause to be painted on the part and in the manner aforesaid the following words "common stage waggon" [*or* cart, as the case may be;] and every owner or proprietor of any such waggon cart wain coach post chaise or other carriage as aforesaid using or allowing the same to be used upon any turnpike road without the names and descriptions painted thereon respectively as aforesaid, or who shall paint or cause to be painted any false or fictitious name or place of abode on such waggon wain cart coach post chaise or other carriage shall forfeit and pay for every such offence a sum not exceeding five pounds.

Penalty for Neglect, not exceeding 5*l*.

One Driver may take charge of Two Carts, provided they are drawn only by One Horse each.

CXXX. And be it further enacted, That it shall and may be lawful for any one person to act as the driver of two carts on any turnpike road, and for such carts to pass and travel on any turnpike road being only under the care and superintendence of such single person: Provided always, that such carts when under the care of only one person shall not be drawn by more than one horse each, and the horse of the hinder cart shall be attached by a rein or reins to the back of the cart which shall be foremost, and in case the said horse shall not be so attached, the driver of the said carts shall forfeit the sum of twenty shillings, to be recovered as other penalties are by this Act to be recovered: Provided also, that this enactment shall not extend or be construed to extend to carts travelling on any turnpike road within ten miles from the cities of *London* or *Westminster*.

Not to extend to Carts within Ten Miles of London.

Children not to drive Carts, &c. on Penalty of 10*s*.

CXXXI. And whereas numbers of carts and waggons, and frequently more than one, are intrusted to the care of children who are unable to guide the horses drawing the same; be it therefore enacted, That no cart or waggon travelling on any turnpike road shall be driven by any person or persons who shall not be of the full age of thirteen years under a penalty not exceeding ten shillings, to be paid by the owner of such cart or waggon.

Drivers of Waggons or Carts not to ride thereon, unless some other Person on Foot guide the same;

Drivers of any Carriage causing Hurt or Damage to others; or quitting the Road; or driving Carriage without Owner's Name;

CXXXII. And whereas many accidents happen and great mischiefs are frequently done upon streets and highways, being turnpike roads, by the negligence or wilful misbehaviour of persons driving carriages thereon; be it therefore enacted, That if the driver of any waggon or cart of any kind shall ride upon any such carriages in any turnpike road, not having some other person on foot or on horseback to guide the same, (such light carts as are usually driven with reins, and are then conducted by some person holding the reins of the horse or horses, not being more than two drawing the same, excepted,) or if the driver of any carriage whatsoever on any part of any turnpike road shall by negligence or wilful misbehaviour cause any hurt or damage to any person or carriage passing, or being upon such road, or shall quit the road and go on the other side the hedge or fence inclosing the same, or wilfully be at such distance from such carriage or in such a situation whilst it shall be passing upon such turnpike road that he cannot have the direction and government of the horses or cattle drawing the same; or if any person shall drive or act as the driver of any such coach post chaise or other carriage let for hire, or waggon wain or cart not having the owner's name as hereby required painted thereon, or shall refuse to discover the true christian and surname of the

owner or principal owners of such respective carriage; or if the driver of any waggon cart coach or other carriage whatsoever meeting any other carriage shall not keep his or her carriage on the left or near side of the road, or if any person shall in any manner wilfully prevent any other person or persons from passing him or her or any carriage under his or her care upon such road, or by negligence or misbehaviour prevent hinder or interrupt the free passage of any carriage or of his Majesty's subjects on any turnpike road, every such driver so offending in any of the cases aforesaid, and being convicted of any such offence, either by his own confession the view of a justice of the peace or by the oath of one or more credible witness or witnesses before any justice of the peace of the limit where such offence shall be committed, or where such offender shall be apprehended, shall for every such offence forfeit any sum not exceeding forty shillings in case such driver shall not be the owner of such carriage; and in case the offender be the owner of such carriage then any sum not exceeding five pounds; and in either of the said cases shall in default of payment be committed to the house of correction for any time not exceeding one month, unless such forfeiture shall be sooner paid; and every such driver offending in either of the said cases shall and may by the authority of this Act, with or without any warrant, be apprehended by any person or persons who shall see such offence committed, and shall be conveyed before some justice of the peace, to be dealt with according to law; and if any such driver in any of the cases aforesaid shall refuse to discover his name, it shall and may be lawful for the justice of the peace before whom he shall be taken, or to whom any such complaint shall be made, to commit him to the house of correction for any time not exceeding three months, or to proceed against him for the penalty aforesaid, by a description of his person and the offence only, without adding any name or designation, but expressing in the proceedings that he refused to discover his name.

or not keeping the Left or Near Side; or interrupting free Passage; the Driver, if not the Owner, to forfeit 40*s.* if he be the Owner, 5*l.*

Penalty on Driver not discovering his Name.

CXXXIII. And be it further enacted, That the trustees or commissioners of any turnpike road, at a public meeting, may and they are hereby empowered, if they think fit, to direct prosecutions by indictment or otherwise against the offender or offenders for any nuisance or other offence done committed or continued in or upon any of the turnpike roads under their care respectively, or to recover any penalty or forfeiture incurred under the provisions of this or any other turnpike act at the expence of the revenues belonging to such turnpike roads, to be allowed by such trustees or commissioners at some subsequent meeting.

Trustees or Commissioners may direct Prosecutions for Nuisances, &c.

CXXXIV. And be it further enacted, That in all cases where any action shall be brought by or against any trustee or trustees or commissioner or commissioners of any turnpike road, evidence of such trustee or trustees commissioner or commissioners having acted as such together with the Act of Parliament by which he or they was or were appointed, or the order or a copy of the order for his or their appointment or election, in case he or they was or were appointed or elected by the trustees or commissioners, shall be sufficient proof of his or their being a trustee or trustees commissioner or commissioners.

If Action be brought against a Trustee, Evidence of his being appointed and acting sufficient.

CXXXV. Provided always, and be it further enacted, That when and as often as any sum or sums of money shall be directed or ordered to be paid by any justice or justices of the peace, in pursuance of the directions of any Act of Parliament relating to turnpike roads as or by way of compensation or satisfaction for any materials costs damages spoil or injury of any nature or kind whatsoever done or committed by the said trustees or commissioners, or any person or persons acting by or under their authority, and such sum or sums of money shall not be paid by the said trustees or commissioners to the party or parties entitled to receive the same, within fourteen days after demand in writing shall have been made, stating the order of such justice or justices from the clerk to the said trustees or commissioners or their treasurer, in pursuance of the direction or order made by such justice or justices, then and in such case the amount of such compensation or satisfaction shall and may be levied and recovered by distress and sale of the goods and chattels vested

Recovery of Money awarded against the Trustees.

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3 Geo. IV. c. 126.

in the said trustees or commissioners by virtue of any such Act, under a warrant to be issued for that purpose by such justice or justices of the peace, which warrant any such justice or justices is and are hereby authorised and required to grant under his hand and seal or their hands and seals, on application made to him or them for that purpose by the party or parties entitled to receive such sum or sums of money, as or by way of compensation or satisfaction for any such materials costs damages spoil or injury as aforesaid; and in case any overplus shall remain after payment of such sum or sums of money, and the costs and expences of hearing and determining the matter in dispute, and also the costs and expences of such distress and sale, then and in such case such overplus shall be returned on demand to the said trustees or commissioners or to their treasurer for the time being, as the case may be.

Penalty on Persons employed with Salaries refusing to execute the Act, 5*l.*

CXXXVI. And be it further enacted, That every constable headborough or tithingman refusing or neglecting to put this Act into execution, or to account for and deliver any forfeiture or penalty according to the directions of this Act, and every surveyor of any turnpike road and every toll collector, and all other persons employed or to be employed by any trustees or commissioners appointed or to be appointed for the repairing roads, who do or shall receive salaries or rewards, who shall wilfully neglect for the space of one week after any offence being to their knowledge committed, to lay such information upon oath before one or more of his Majesty's justices of the peace for the limit wherein such offence was committed as by this Act is directed, shall upon due information made upon oath before one of his Majesty's justices of the peace for the said limit forfeit for every such neglect the sum of five pounds.

Inhabitants good Witnesses.

CXXXVII. Provided always, and be it further enacted, That no conviction shall be had or made by virtue of this Act, unless upon the view of a justice convicting or on confession of the party accused or upon the oath of one or more credible witness or witnesses, and that any inhabitant of any parish township or place in which any offence shall be committed contrary to this Act, shall not be deemed an incompetent witness by reason of his or her being an inhabitant of such parish township or place; and that any justice of the peace may act in the execution of this Act, notwithstanding he may be a creditor or a trustee or commissioner for making repairing and maintaining the roads on which any offence contrary to this Act shall be committed.

Penalty on Witnesses not attending when summoned not exceding 40*s.*

CXXXVIII. And be it further enacted, That if any person or persons after having been paid or tendered a reasonable sum of money for his her or their costs charges and expences, shall be summoned as a witness or witnesses to give evidence before any justices of the peace touching any matter of fact contained in any information or complaint for any offence against any Act of Parliament relating to turnpike roads or this Act, either on the part of the prosecutor or the person or persons accused, shall refuse or neglect to appear at the time and place for that purpose appointed, without a reasonable excuse for his her or their refusal or neglect, or appearing shall (after having been paid or tendered a reasonable sum for his costs charges and expences) refuse to be examined upon oath, and give evidence before such justice of the peace, then and in either of such cases such person shall forfeit for every such offence any sum not exceeding forty shillings.

Persons resisting the Execution of this Act or assaulting Collectors to forfeit not exceeding 10*l.*

CXXXIX. And be it further enacted, That in case any person or persons shall resist or make forcible opposition against any person or persons employed in the due execution of this Act, or any particular Act made for amending any turnpike road, or shall assault any surveyor or any collector or collectors of the tolls, in the execution of his or their office or offices, or shall pass through any turnpike gate or gates rail or rails chain or chains or other fence or fences set up or to be set up by authority of Parliament, without paying the toll appointed to be paid at such gate or other fence, or shall hinder or make any rescue of cattle or other goods distrained by virtue of this Act, every such person offending therein shall for every such offence forfeit any sum not exceeding ten

pounds at the discretion of the justice or justices of the peace before whom he or she shall be convicted.

CXL. And whereas offences may be committed against this Act, or other Acts for repairing and maintaining turnpike roads, by persons unknown to the collectors or other officers; be it therefore further enacted, That it shall be lawful for any of the trustees or commissioners of any turnpike road, or their clerk or clerks or their collectors surveyors, or other officers respectively, and such other person or persons as he or they shall call to his her or their assistance, without any warrant or other authority than this Act, to seize and detain any unknown person or persons who shall commit any such offence or offences, and take him her or them before any justice of the peace for the county district or place near to the place where the offence or offences shall be committed, or such offender or offenders shall be seized and apprehended; and such justice and justices shall and is and are hereby required to proceed and act with respect to such offender or offenders, according to the provisions of this or any other Acts for repairing turnpike roads.

For securing transient Offenders.

CXLI. And be it further enacted, That all penalties forfeitures and fines by this Act inflicted or authorised to be imposed (the manner of levying and recovering and applying whereof is not herein otherwise directed,) shall upon proof and conviction of the offences respectively, before any justice of the peace for the county riding or place where the offence shall have been committed (as the case may require) either by the confession of the party offending, or by the oath of any credible witness or witnesses (which oath such justice is in every such case hereby fully authorised to administer) be levied, together with the costs attending the information and conviction, by distress and sale of the goods and chattels of the party or parties offending, by warrant under the hand and seal of such justice (which warrant such justice is hereby empowered and required to grant,) and the overplus (if any) after such penalties forfeitures and fines, and the charges of such distress and sale are deducted, shall be returned upon demand unto the owner or owners of such goods and chattels; and in case such fines penalties and forfeitures shall not be forthwith paid upon conviction, then it shall be lawful for such justice to order the offender or offenders so convicted to be detained and kept in safe custody until return can be conveniently made to such warrant of distress, unless the offender or offenders shall give sufficient security, to the satisfaction of such justice, for his or their appearance before such justice on such day or days as shall be appointed for the return of such warrant of distress, such day or days not being more than seven days from the time of taking any such security, and which security the said justice is hereby empowered to take by way of recognizance or otherwise; but if upon the return of such warrant it shall appear that no sufficient distress can be had thereupon, then it shall be lawful for any such justice of the peace as aforesaid, and he is hereby authorised and required by warrant or warrants under his hand and seal to cause such offender or offenders to be committed to the common gaol or house of correction of the county riding or place where the offender shall be or reside, there to remain without bail or mainprize for any time not exceeding three calendar months, unless such penalties forfeitures and fines and all reasonable charges attending the same shall be sooner paid and satisfied; and the monies arising by such penalties forfeitures and fines respectively, when paid or levied, if not otherwise directed to be applied by this Act, shall be from time to time paid, one moiety thereof to the informer or person suing for and recovering the same, and the other moiety to the treasurer or treasurers to the trustees or commissioners for repairing and maintaining the road on which such offence shall have been committed, and applied and disposed of for the purposes of such road and of this Act.

Recovery and Application of Penalties.

CXLII. Provided always, and be it enacted, That it shall and may be lawful for any justice or justices of the peace before whom any person shall be convicted of any offence against this Act, or any Act for making and repairing turnpike roads, if he or they shall think proper to mitigate

Justices may mitigate Penalties.

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or reduce the penalty incurred by such person, so as such reduction or mitigation do not exceed two-thirds of the penalty to which such person would be liable under this or any other Act.

Prosecutors may recover by Information, or by Action, &c.

CXLIII. And be it further enacted, That every prosecutor or informer shall sue for and recover any forfeiture or penalty imposed by this or any other Act or Acts of Parliament made for erecting turnpikes, or for repairing and amending turnpike roads, in the manner hereinafter mentioned; (that is to say,) if the same shall exceed the sum of twenty pounds or upwards, it shall be recoverable by action of debt in any of his Majesty's courts of record, in which it shall be sufficient to declare that the defendant is indebted to the plaintiff in the sum of

being forfeited by an Act passed in the third year of the reign of his Majesty King *George* the Fourth, intituled *An Act* [*here set forth the title of this Act, if the offence shall be committed under it, or, An Act, &c. setting out the title of the Act under which the penalty shall be claimed;*] and the plaintiff, if he recover in any such action, shall have full costs, provided that there shall not be more than one recovery for the same offence, and that twenty-one days notice be given to the party offending, previous to the commencement of such action, and that the same be brought and commenced within three calendar months after the offence for which such action is brought shall have been committed; and if such penalty or forfeiture shall not exceed the sum of twenty pounds, and shall be more than five pounds, the same shall be recoverable only by information before a justice of the peace, subject to appeal in manner hereinafter mentioned; and if such penalty or forfeiture shall not exceed the sum of five pounds, the same shall in like manner be recoverable only by information before a justice of the peace, and no writ of certiorari to remove the same shall be allowed.

Party aggrieved may recover satisfaction for Special Damages.

CXLIV. And be it further enacted, That where any distress shall be made for any sum or sums of money to be levied by virtue of this Act, or any other Act for repairing amending or maintaining any turnpike road, the distress itself shall not be deemed unlawful, nor the party or parties making the same, be deemed a trespasser or trespassers on account of any default or want of form in any proceeding relating thereto; nor shall the party or parties distraining be deemed a trespasser or trespassers, *ab initio*, on account of any irregularity which shall be afterwards done in making the distress; but the person or persons aggrieved by such irregularity, may recover the satisfaction for the special damage in an action on the case: Provided always, that no plaintiff or plaintiffs shall recover in any action for such irregularity trespass or wrongful proceedings, if tender of sufficient amends shall be made by or on behalf of the party or parties who shall have committed or caused to be committed any such irregularity or wrongful proceedings before such action brought; and in case no such tender shall have been made, it shall and may be lawful for the defendant in any such action, by leave of the court where such action shall depend, at any time before issue joined, to pay into court such sum of money as he or they shall see fit; whereupon such proceedings or orders and judgment shall be had made and given in and by such court as in other actions where the defendant is allowed to pay money into court.

Tender of Amends.

Appeal may be made to Quarter Sessions.

CXLV. Provided always, and be it further enacted, That if any person shall think himself or herself aggrieved by any thing done by any justice or justices of the peace in pursuance of this Act, except under the particular circumstances hereinafter mentioned, and for which no particular method of relief hath been already appointed, such person in case the penalty or forfeiture shall exceed the sum of forty shillings, where the appeal is to be against a conviction for a penalty or forfeiture, may appeal to the justices of the peace, at the next general quarter sessions of the peace to be held for the limit wherein the cause of such complaint shall arise, such appellant first giving or causing to be given to such justice, by whose act or acts such persons shall think himself or herself aggrieved, notice in writing of his or her intention to bring such appeal and of the matter thereof, within six days after the cause of such complaint arose,

and within four days after such notice entering into recognizances before some justice of the peace with two sufficient sureties, conditioned to try such appeal at, and abide the order of and pay such costs as shall be awarded by the justices at such quarter sessions, and also to pay the penalty or forfeiture in case the conviction should be affirmed; and each and every justice of the peace having received notice of such appeal as aforesaid, shall return all proceedings whatever had before him respectively, touching the matter of such appeal to the said justices at their general quarter sessions aforesaid, on pain of forfeiting fifty pounds for every such neglect; and the said justices at such session, upon due proof of such notice having been given as aforesaid, and of such recognizance having been entered into in manner before directed, shall hear and finally determine the causes and matters of such appeal in a summary way, and award such costs to the parties appealing or appealed against, as they the said justices shall think proper, to be levied and recovered as hereinbefore directed, and the determination of such quarter sessions shall be final and conclusive, to all intents and purposes; and no proceeding to be had or taken in pursuance of this Act, shall be quashed or vacated for want of form, or removed by certiorari, or any other writ or process whatsoever, into any of his Majesty's courts of record at *Westminster;* any law or statute to the contrary notwithstanding: Provided always, that in case there shall not be time to give such notice, and enter into such recognizances as aforesaid, before the next sessions to be holden after the conviction of the appellant, then and in every such case such appeal may be made to the next following sessions, and shall be there heard and determined.

No Certiorari.

CXLVI. And be it enacted, That where any oath or affirmation is by this or any Act relating to any turnpike road required and directed to be made or taken, the justices of the peace of any county or place, or the trustees or commissioners of any turnpike road, (as the case may be,) and according to the several jurisdictions herein given to them respectively as aforesaid, shall and they are hereby respectively empowered to administer the same.

Power to administer Oaths.

CXLVII. And be it further enacted, That if any action or suit shall be commenced against any person or persons for any thing done in pursuance of this Act, then and in every such case such action or suit shall be commenced or prosecuted within three months after the fact committed, and not afterwards; and the same and every such action or suit shall be brought in the county or place where the cause of action shall have arisen, and not elsewhere; and the defendant or defendants in every such action or suit shall and may plead the general issue, and at the trial thereof, give this Act and the special matter in evidence; and if the matter or thing complained of shall appear to have been done under the authority and in execution of this Act, or if any such action or suit shall be brought after the time limited for bringing the same, or be brought and laid in any other county or place than as aforementioned, then the jury shall find for the defendant or defendants, and if the plaintiff shall become nonsuit, or discontinue his or her action after the defendant shall have appeared, or have a verdict against him or her, or if upon demurrer, judgment shall be given against the plaintiff, the defendant shall and may recover treble costs, and have the like remedy for recovery thereof as any defendant or defendants hath or have in any cases by law.

Limitation of Actions.

General Issue.

Treble Costs.

CXLVIII. And be it further enacted, That the forms of proceeding relative to the several matters contained in this Act, which are set forth and expressed in the schedule hereunto annexed, may be used upon all occasions, with such additions and variations only as may be necessary to adapt them to the particular exigencies of the case, and that no objection shall be made or advantage taken for want of form in any such proceedings by any person or persons whomsoever.

Forms in the Schedule annexed to be used.

CXLIX. Provided always, and be it further enacted, That nothing in this Act contained shall extend, or be construed adjudged deemed or

Act not to extend to the

Commercial Road, and Branches of Road leading from and out of the same, authorised to be made and repaired by the Acts of 43, 44, 46, 49, and 51 G. 3.:

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3 Geo. IV. c. 126.

taken to extend to the turnpike road called the *Commercial Road*, or the several branches leading from and out of the same, authorised to be made repaired and maintained under and by virtue of five several Acts of Parliament made and passed in the forty-third forty-fourth forty-sixth forty-ninth and fifty-first years of the reign of his late Majesty King *George* the Third, for making and maintaining the roads communicating with the *West* and *East India* Docks, and for repairing the *Cannon Street* Road, and for making and maintaining a new road to *Barking*, and a road from the *Romford* and *Whitechapel* Road to *Tilbury Fort* in the counties of *Middlesex* and *Essex*, and also for making a new branch of road from *King David Lane*, *Shadwell*, to the *Essex* Road at *Mile End* in the county of *Middlesex*, or to affect encroach upon vary alter or interfere with any of the tolls weights or duties created by virtue of the said Acts or any of them, or any of the powers and authorities given to or vested in the trustees acting under or by virtue of the said Acts, or any or either of them.

Nor to extend to 56 G. 3. c. lxxxiii. for improving the Road from Glasgow to Carlisle.

CL. Provided always, and be it enacted, That nothing herein contained shall be deemed construed or taken to extend to an Act passed in the fifty-sixth year of the reign of his late Majesty King *George* the Third, intituled *An Act for improving the Road from the City of* Glasgow *to the City of* Carlisle, or to three several Acts amending the same, passed in the fifty-eighth and fifty-ninth years of the reign of his said late Majesty, and in the first and second years of the reign of his present Majesty.

Parties interested may signify their Consent to any Turnpike Bill by Affidavit.

CLI. And be it further enacted, That all persons concerned or interested in any bill for making or repairing any turnpike road or for widening or diverting such road, may signify their consent to the same by affidavit, taken and authenticated according to the form hereinafter prescribed, unless the committee of either house of Parliament to whom such bill or the petition of such bill shall be referred shall otherwise order.

Justices of the Peace or Masters Extraordinary in Chancery empowered to take all such Affidavits.

CLII. And be it further enacted, That it shall and may be lawful for any one or more justice or justices of the peace or master or masters extraordinary in chancery to take affidavits on oath or affirmation (which oath or affirmation such justice or justices or master or masters extraordinary in chancery is and are hereby authorised and empowered to administer) of the answers that may be given by the owners and occupiers of lands on applications made to them for their consent to such bills; and every affidavit shall be in the form following as near as the circumstances of the case will admit;

'*A. B.* of maketh oath and saith, That he 'did apply to *C. D.* who he believes to be the owner of [*set out the 'property*] being part of the lands through which the intended turnpike 'road from *E.* to *F.* is to be carried or the alteration to be made (*as the 'case may be*) and that he received from such owners the answers set 'forth in the paper hereunto annexed.

(Signed) *A. B.*

'Sworn [*or*, solemnly affirmed] before me [*as in the other forms hereinbefore set forth.*']

'As witness my hand and seal,'

And no such affidavit as aforesaid shall be subject or liable to any stamp duty now payable by any Act or Acts of Parliament or which shall hereafter be imposed unless specially named and made subject thereto by the Act or Acts of Parliament imposing the same.

Proof of Handwriting of Justice to be deemed sufficient.

CLIII. Provided always, and be it enacted, That proof of the handwriting of any justice of the peace or master extraordinary in chancery before whom any such affidavit shall be made as aforesaid, shall be sufficient evidence of the signature of such justice or master extraordinary before any committee of either house of Parliament, without any witness being produced who was present at the time when such affidavit was made, and without a witness being produced to prove that such justice of the peace or master extraordinary in chancery before whom such affi-

davit was made was at the time of making such affidavit a justice of peace or master extraordinary in chancery.

The SCHEDULE to which the Act refers; Containing the Forms of Proceedings mentioned in the foregoing Act.

No. 1.—ORDER of Trustees for erecting a Weighing Engine.

AT a Meeting of the Trustees of the Turnpike Roads under an Act passed in the Year of the Reign of his Majesty King George the "For [*state the title of the Act*] held at the day of

IN pursuance of the powers given to us by an Act passed in the third year of the reign of his Majesty King George the Fourth, for regulating turnpike roads, we do hereby order that an engine proper for the weighing of carriages of the constructions and weights specified in the said Act, be forthwith erected at or as near as conveniently may be to the toll gate or bar now erected upon the said turnpike road at ; and that *A. B.* the [Treasurer, Clerk, *or*] Surveyor of the said turnpike road, do contract with some proper person [*or*, with *C. D.*] [*in case the Trustees shall think fit to name the person*] for the making and erecting such engine, and do inspect and take care that the same is properly done; and we do order the gatekeeper at the said gate or bar for the time being to attend the said weighing engine, and carefully to weigh all carriages passing loaded upon the said road, at the place where such engine shall be erected, together with the loading thereof, and to take the several additional tolls or rates for overweight, and give tickets of the weight of such carriages and loading when required by the driver thereof, and also to enter in a separate book to be kept by him for that purpose, an account of every carriage so weighed, which shall with the loading exceed the weights allowed by the said Act, and account to us for the money received for all such overweight.

No. 2.—TABLE of Weights allowed in Winter and Summer, to Carriages directed to be weighed (including the Carriage and Loading) by the Act of the Third George the Fourth.

	SUMMER.		WINTER.	
	Tons.	Cwts.	Tons.	Cwts.
To every Waggon with Nine-inch Wheels -	6	10	6	—
To every Cart with Nine-inch Wheels - -	3	10	3	—
To every Waggon with Six-inch Wheels -	4	10	4	—
To every Cart with Six-inch Wheels - -	2	15	2	10
To every Waggon with wheels of the Breadth of Four Inches and a Half - - -	4	5	3	15
To every Cart with Wheels of the Breadth of Four Inches and a Half - - - -	2	12	2	7
To every Waggon with Wheels of Three Inches	3	15	3	5
To every Cart with Wheels of Three Inches	1	15	1	10

No. 3.—AGREEMENT between Trustees of different Turnpike Roads for erecting One Weighing Engine for the Use of such Roads.

AT a Meeting of the Trustees of the Turnpike Roads, under an Act passed in the Year of the Reign of King George the "For [*state the principal part of the title of the Act*] and also of the Trustees of the Turnpike Roads, under an Act passed in the Year of the Reign of King George the "For &c. [*as above*], held at the day of for the purpose of agreeing upon and ordering a Weighing Engine at the joint expence of the Trustees, for the use of the said several Turnpike Roads, pursuant to the powers

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given by an Act passed in the third year of the reign of his Majesty King George the Fourth, "For regulating Turnpike Roads."

IT appearing to us that a Weighing Engine may be erected at [*describing the spot where it can be most conveniently placed*], which will accommodate both the said Turnpike Roads, according to the true intent and meaning of the said Act: We do therefore order, &c. [*as in the form above mentioned*], and we do hereby agree and order, that the expences of making and erecting the said Weighing Engine, and the sum of which we do hereby agree and order shall be paid to the toll-gatherer attending the said toll gate for the time being, weekly for his extraordinary trouble in attending the said Weighing Engine, shall be advanced and paid by the Treasurers of the said several turnpike roads, in the shares and proportions following; *videlicet*, that the Treasurer of the road shall pay [one-half], [two-third], [three-fourth] parts thereof, [*as the Trustees shall agree*], and the Treasurer of the road shall pay the remaining [one-half], [one-third], *or* [one-fourth] part thereof; and that the money to be received at the said Weighing Engine by forfeitures for overweight, shall be paid to the said respective Treasurers in the like proportions, and applied by them for the use of the said respective turnpike roads.

(Signed)

No. 4.—NOTICE of a Meeting of Trustees for ordering a Side Gate to be erected.

NOTICE is hereby given, That the Trustees of the Turnpike Roads under an Act passed in the year of the reign of King George the "For [*state the material parts of the title of the Act*], will meet at the house of at on the day of next, at the hour of in the noon, in order to consult about erecting a Toll Gate on the side of the said turnpike road, at or near a place called across a certain highway there, leading to

Dated the day of

A. B. Clerk to the said Trustees.

No. 5.—ORDER of the Trustees for erecting a Side Gate.

AT a Meeting of the Trustees of the Turnpike Roads, under an Act passed in the year of the reign of King George the "For [*here state the material parts of the title of the Act*], being assembled this day of to enforce the directions of an Act passed in the third year of the reign of King George the Fourth, "For regulating Turnpike Roads," [*as far as the same respects the erecting of Side Gates.*]

IN pursuance of public notice given in writing upon all the toll gates erected on the said road, and also in the newspapers circulated in this part of the country for fourteen days now last past, We do order, that a Toll Gate shall be erected on the side of the said turnpike road, at or near a place called across a certain highway there, leading to and that the following toll be taken at the said gate, videlicet, [*here insert the particular tolls to be taken at the said Side Gate.*]

No. 6.—NOTICE for letting Tolls.

NOTICE is hereby given, That the Tolls arising at the Toll Gate [*or* Toll Gates, *if more than one*] upon the turnpike road at called or known by the name of the Gate, will be let by Auction to the best bidder, at the house of at on the day of next, between the hours of and in the manner directed by the Act passed in the third year of the reign of his Majesty King George the Fourth, "For regulating Turnpike Roads," which tolls produced the last year the sum of above the expences of collecting them, and will be put

up at that sum; whoever happens to be the best bidder, must at the same time pay one month in advance (if required) of the rent at which such tolls may be let, and give security, with sufficient sureties, to the satisfaction of the Trustees of the said turnpike road, for payment of the rest of the money monthly, [*or in such other proportions as shall be directed.*]

A. B. Clerk to the Trustees of the said Turnpike Road.

No. 7.—ORDER of Trustees for reducing the Tolls.

AT a Meeting of the Trustees of the Turnpike Roads, under an Act passed in the year of the reign of King George the "For, &c. [*state the principal part of the title of the Act*], held at the day of

WE, whose names are subscribed, being or more of the trustees acting under the said Act, being now assembled for reducing the tolls authorised to be taken by and under the said Act, pursuant to public notice given for that purpose in the newspapers circulated in this part of the country, and also affixed upon all the turnpike gates erected upon the said turnpike road, for upwards of one calendar month now last past, and having the consent of the several persons entitled to five-sixths parts of the money now remaining due upon the credit of the said tolls, this day signified and proved to us, do hereby order that the tolls granted by the said Act shall, from and after the day of be lessened and reduced in the following manner [*here state the several reductions proposed to be made.*]

No. 8.—AGREEMENT between the Trustees of a Turnpike Road and a Person liable by Tenure to repair some part of it.

AT a Meeting of the Trustees of the Turnpike Roads, under an Act passed in the Year of the Reign of King George the "For [*state the principal part of the title of the Act,*] held at the day of

WHEREAS *A. B.* of is liable by tenure, &c. [*as the case shall be*] to the repair of a certain highway leading between and of the length of yards or thereabouts, and the said highway being now made turnpike road by virtue of the said Act, will occasion a greater expence to make and keep the same in proper repair than would have been necessary if no such Act had been obtained, and the said *A. B.* attending this meeting in person [*or*, by *C. D.* his attorney or agent authorised to treat in his behalf] the said trustees and the said *A. B.*, &c. in pursuance of a power given by an Act passed in the third year of the reign of King George the Fourth, "For regulating Turnpike Roads," have, in order to put and keep the said road in proper condition and repair, come to the following agreement, videlicet; That the said trustees shall on or before the day of next, pay and allow the sum of out of the tolls arising upon the said turnpike roads towards putting the said road into proper repair, to be laid out and expended by the surveyor of the said turnpike road, and that the said *A. B.* shall advance and pay into the hands of the treasurer of the said turnpike road on or before the day of next, the sum of to be also laid out and expended by the said surveyor in the repair of the said road, and that from and after the next, the said turnpike road shall be kept in repair by the said trustees out of the said tolls as aforesaid, so long as the said turnpike Act shall continue, upon the said *A. B.* paying into the hands of their treasurer the sum of upon the in every year, which the said *A. B.* doth hereby for himself and his heirs agree to pay accordingly, so long as the said road shall be so repaired by the said trustees as aforesaid.

[*Or, if it shall be agreed that A. B. shall keep the road in repair upon having an annual allowance in money or statute duty from the said trustees, let the agreement be varied and adapted to the case.*]

No. I.

3 Geo. IV. c. 126.

No. 9.—MAGISTRATES SUMMONS.

To the Surveyors of the Highways of the Parish of in the County of

UPON application made by surveyor of the turnpike roads from appointed by the trustees for putting into execution an Act of Parliament passed in the year of the reign of his Majesty King George the intituled "An Act by order of the trustees for the said road to us, two of his Majesty's justices of the peace acting in and for the said county; We do hereby summon you, the surveyors of the highways of the parish or place of in the said county, to deliver a list to the said as such surveyor as aforesaid, at his house situate in the said county, within days after the service of this summons, of the names of the several persons, inhabitants of the said parish or place, and who are by law subject and liable to do statute work for the present year upon the road situate in the said parish or place, or to the payment of any money in lieu of or as a composition for such statute work, distinguishing the nature of the work to be done, whether with teams or draughts or otherwise, and also the amount of the respective sums to be paid, and we the said justices do hereby require you to make such lists of names in such manner and under such regulations and restrictions as is or are directed by any law or statute now in force and effect for the repair of the public highways.

And in case you shall refuse or wilfully neglect to give in such list as aforesaid, or shall knowingly or wilfully give in a false or imperfect list, you so offending will for every such offence forfeit and be liable to pay a sum not exceeding ten pounds.

Given under our hands and seals this day of in the year of our Lord 182 .

No. 10.—NOTICE to be given to Surveyors of Highways.

To the Surveyors of the Highways of the Parish or Place of in the County of

I DO hereby give you notice, that the list delivered by you to me as surveyor of the turnpike road from to in the said county of of the names of the several persons who within your said parish or place are by law liable to do statute work for the present year, or to the payment of money in lieu of or as a composition for such statute work, will be laid before two of his Majesty's justices of the peace for the said county, in pursuance of the directions of the Act, passed in the year of his Majesty King George the , intituled "An Act on the day of at in the said county, in order that such two justices may adjudge and determine what part or proportion of the statute work for the said year shall be done upon the said road, and also what proportion of the composition money shall be paid to the trustees of the said road, or to their treasurer And I do hereby give you further notice, that I shall apply to the justices for [*one-half, one-third, as the case may be*] of the statute duty from your parish for this year, which according to the list delivered by you will be (*say*) days in the whole in composition money. If you object to this division, you will in course appear, but if not, the same will be confirmed by the justices, if they think proper.

Dated this day of

Surveyor of the said turnpike road.

No. 11.—JUSTICES ORDER, apportioning Statute Labour.

to wit. } WE, two of his Majesty's justices of the peace, acting in and for the county of upon application by the surveyor appointed by the trustees of the turnpike road from to in the said county, in pursuance of an Act of

Parliament, passed in the year of the reign of his Majesty King George the intituled *An Act for* do adjudge and determine that the inhabitants of the parish of in the said county of shall do part or proportion of the statute work for the ensuing year upon such turnpike road in the said parish of being a parish in which the said road lies, and that proportion of the money received by the surveyor or surveyors of the highways of such parish or place, in lieu of or as a composition for such statute work, shall be by him or them paid to the said trustees of the said turnpike road, or to their treasurer or other person authorised by them to receive the same, on or before the day of ; the names of the several persons appointed to do such proportion of the statute work on the said turnpike road appear in the schedule to this order.

Given under our hands the day of 182

(Signed)

No. 12.—ORDER of Justices at a Special Sessions to take Part of the Statute Duty from Turnpike Roads, for the Benefit of other Highways in the said Parish, &c.

County of } AT a Special Sessions held by the justices of the peace
to wit. } for the said county, acting in the [hundred] of
within the said county, at on the day of

WHEREAS application and complaint upon oath has been made unto us by *A. B.* surveyor of the [parish, &c.] of that the several highways, not being turnpike, within the said [parish, &c.] are very extensive and in bad repair, and that a considerable part of the statute duty arising within the said [parish, &c.] hath been called forth and required to be applied in the repair of certain turnpike roads lying within the said [parish, &c.] which are in good condition and have a considerable revenue for their support, arising from the tolls collected thereupon; and we having duly summoned *C. D.* the surveyor of the said turnpike road to appear before us, to show cause why the said statute duty called forth and applied by him to the repair of the said turnpike road, should not be withdrawn therefrom and applied to the repair of the other highways within the said [parish, &c.] and upon hearing the said *C. D.* and receiving an account of the revenues and debts of the said turnpike road, and of the state and condition of the repair of the said turnpike road and highway respectively; and it appearing to us, upon full consideration had thereupon, that part of the statute duty hitherto employed by the said [parish, &c.] for the repair of the said turnpike road may be conveniently dispensed, without endangering the securities for the money advanced upon the credit of the tolls thereof, and that such statute duty is wanted for the repairs of the other highways within the said parish; We, in pursuance of the power given to us by the Act passed in the third year of the reign of King George the Fourth, "For regulating Turnpike Roads," do order that from and after the day of next, there shall be only [one] day's statute duty performed by the inhabitants of the said [parish, &c.] upon the said turnpike road within the same, and that the remainder of the statute duty shall be performed upon the other highways within the said [parish, &c.]

[*If there are more turnpike roads than one, or the whole statute duty shall be thought fit to be taken away, this form must be varied to fit those cases; the summons to the surveyors will be very easily formed from this order.*]

No. 13.—CERTIFICATE of the above Order to the Justices of the Peace at their Quarter Sessions.

I *A. B.* clerk to the trustees mentioned in the above order, do hereby certify to the justices of the peace for the [county] [riding] [division] of at their general quarter sessions of the peace, that the above is a true copy of the order made by the said trustees for the purposes therein mentioned.

Dated this day of *A. B.*

No. I.
3 Geo. IV.
c. 126.

No. 14.—AGREEMENT by Subscription for advancing Money to make and repair a Turnpike road or Highway.

WE whose names are subscribed, do agree to advance and pay the several sums wrote by us opposite to our names, unto to be laid out and expended in the making and repairing a certain highway leading from to after an Act of Parliament shall be obtained for making the same turnpike road, upon having the tolls to be collected upon such turnpike road assigned and made over to us as a security for the respective sums so to be advanced by us, together with interest for the same after the rate of per centum per annum, which sums we do hereby severally agree to pay by instalments, in the following manner, *videlicet;* one fourth part thereof on the day of next; one other fourth part, [*&c. &c. &c.*]

Dated this day of

No. 15.—WARRANT from a Justice of the Peace to enter the Toll Gate House and remove the Persons therein.

County of } TO the [Constable], [Headborough], [Tithingman],
to wit. } of in the said County.

WHEREAS complaint hath been made unto me *A. B.* esquire, one of his Majesty's justices of the peace for the said county, upon the oath of and other evidence now produced to me, that *C. D.*, who now inhabits the turnpike or toll gate house at upon the turnpike road leading from to and was appointed to collect the tolls there, hath been duly discharged by the trustees of the said turnpike road, from any further collecting or receiving the tolls arising at the said gate, and hath refused and still doth refuse to quit the possession of the said house, and the said *C. D.* having been summoned to appear before me this day, to shew cause why he should not be removed from the said house, and having shewn no sufficient cause for that purpose [*or,* not having appeared], I do hereby authorise and require you, with such assistance as shall be necessary, to enter into the said toll house or turnpike house, and the buildings belonging thereto, in the day-time, and to remove the said *C. D.* and all such persons as shall be found therein, together with his and their goods out of such house and buildings, and to put *E. F.*, the person lately appointed by the trustees to collect such tolls, into the possession thereof, for which this shall be your sufficient warrant.

Given under my hand and seal this day of

[*This form may be varied to suit the case of the widow or family of a deceased collector.*]

No. 16.—BOND of the Surveyor.

WE, *A. B.* surveyor of the turnpike roads, under an Act passed in the year of the reign of King George the " For [*state the principal part of the title of the Act*], and *C. D.* of are bound to *E. F.* of in the sum of pounds, to be paid to the said *E. F.* his executors administrators and assigns, for which payment we hereby bind ourselves severally, and each of our heirs executors and administrators.

Dated the day of

The condition of this bond is such, that if the said *A. B.* his executors or administrators shall duly and faithfully account for apply and pay all and every the sum and sums of money which hath come or shall come to his hands as surveyor of the turnpike road aforesaid, according to the direction and true intent and meaning of the said Act, and of the statute made in the third year of the reign of his Majesty King *George* the Fourth; " For regulating Turnpike Roads," then this bond to be void, else to remain in full force.

[*The bond from the Treasurer will be in the same form.*]

No. 17.—SUMMONS for any person or persons to attend a Justice or Justices.

County of } TO *A. B.* of
to wit.

WHEREAS complaint and information hath been made before me, *C. D.* one of his Majesty's justices of the peace for the said [county, &c.] by *E. F.* of That, &c. [*here state the nature and circumstances of the case, as far as it shall be necessary to show the offence, and to bring it within the authority of the justice, and in doing that, follow the words of the Act as near as may be*] These are therefore to require you personally to appear before me [*or*, the Justices to be assembled at their Special Sessions to be holden] at in the said [county, &c.] on the day of next at the hour of in the noon, to answer to the said complaint and information made by the said *E. F.* who is likewise directed to be then and there present, to make good the same. Herein fail not.

Given under my hand, this day of

No. 18.—INFORMATION.

County of } BE it remembered, That on the day
to wit. } of *A. B.* of in the said county, informeth me, one of his Majesty's justices of the peace for the said county, That of in the said county [*here describe the offence, with the time and place, and follow the words of the Act, as near as may be*] contrary to the statute made in the third year of the reign of King George the Fourth, "For regulating Turnpike Roads," which hath imposed a forfeiture of for the said offence.

Taken the day of before me, *A. B.*

No. 19.—FORM OF CONVICTION.

County of } BE it remembered, That on the
to wit. } day of in the year of the reign of and in the year of our Lord *A. B.* is convicted before me one of his Majesty's justices of the peace for the said county, for [*here specify the offence, and when and where committed,*] contrary to the form of the statute made in the year of the reign of intituled [*here set forth the Title of the Act,*] and I do hereby declare and adjudge that the said *A. B.* hath forfeited, for the said offence, the sum of [*or*, shall be committed to for the space of *as the case may be*]

Given under my hand and seal the day and year first above written.

C. D.

No. 20.—WARRANT to distrain for Forfeiture.

To the [Constable], [Headborough], *or* [Tithingman] of

County of } WHEREAS *A. B.* of in the said
to wit. } county, is this day convicted before me, *C. D.* esquire, one of his Majesty's justices of the peace in and for the said county, upon the oath of *G. H.* a credible witness, for that the said *A. B.* hath [*here set forth the offence, describing it particularly in the words of the statute, as near as may be*] (contrary to the statute in that case made and provided,) by reason whereof the said *A. B.* hath forfeited the sum of to be distributed as herein is mentioned, which he hath refused to pay: These are therefore in his Majesty's name to command you to levy the said sum of by distress of the goods and chattels of him the said *A.B.*; and if within the space of four days next after such distress by you taken, the said sum, together with the reasonable charges of taking and keeping the same, shall not be paid, that then you do sell the said goods and chattels so by you distrained, and out of the money arising by such sale, that you do pay one half of the said sum of to *E. F.* of

No. I.
3 Geo. IV. c. 126.

who informed me of the said offence, and the other half of the said sum of to *I. K.* the surveyor of the turnpike road [*describing it*] where the said offence [neglect *or* default] happened, to be employed towards the repair of the said road, returning the overplus on demand to him the said *A. B.* [the reasonable charges of taking, keeping, and selling the said distress being first deducted]; and if sufficient distress cannot be found of the goods and chattels of the said *A. B.* whereon to levy the said sum of that then you certify the same to me, together with this warrant.

Given under my hand and seal, the day of

C. D.

No. 21.—RETURN of the Constable, to be made upon the Warrant of Distress, where there are no Effects.

I *A. B.* Constable of the [Parish, &c.] of in the county of do hereby certify and make oath, That by virtue of this warrant I have made diligent search for the goods of the within-named and that I can find no sufficient goods whereon to levy the within sum of

As witness my hand, the day of

A. B.

Sworn before me, the day and year, &c. *C. D.*

No. 22.—COMMITMENT for Want of Distress.

County of } TO the [Constable] of in the said
to wit. } county and to the Keeper of the Common Gaol [*or*, the House of Correction] at in the said county.

WHEREAS *A. B.* of in the said county, was on the day of convicted before me *C. D.* esquire, one of his Majesty's justices of the peace in and for the said county, upon the oath of *E. F.* a credible witness, for that he the said *A. B.* [*here set forth the offence*], contrary to the statute made in the third year of the reign of his Majesty King George the Fourth, "For regulating Turnpike Roads," by reason whereof the said *A. B.* hath forfeited the sum of And whereas on the day of in the year aforesaid, I did issue my warrant to the [constable] of to levy the said sum of by distress and sale of the goods and chattels of him the said *A. B.* and to distribute the same according to the directions of the said statute: And whereas it duly appears to me, upon the oath of the said [constable], that the said [constable] hath used his best endeavours to levy the said sum on the goods and chattels of the said *A. B.* as aforesaid; but that no sufficient distress can be had whereon to levy the same: These are therefore to command you, the said [constable] of aforesaid, to apprehend the said *A. B.* and him safely to convey to the common gaol [*or* house of correction] at in the said county, and there deliver him to the keeper thereof together with this precept: And I do also command you the said keeper, to receive and keep in your custody the said *A. B.* for the space of three months, unless the said sum shall be sooner paid, pursuant to the said conviction and warrant; and for so doing this shall be your sufficient warrant.

Given under my hand and seal, the day of in the year of our Lord

C. D.

No. 23.—NOTICE of Appeal to the Quarter Sessions.

A. B. Take notice, that I intend to appeal to the next General Quarter Sessions of the Peace to be holden for the [county, &c.] of against an order [conviction, *or* other proceeding], (*as the case may be*) [*particularly specifying the purport of such Order, &c. and assigning the grievance and cause of complaint.*]

Dated the day of *C. D.*

No. 24.—GENERAL STATEMENT of the INCOME and EXPENDITURE of the [*insert the Name of the particular Road*] between the Day of and the Day of .

EXPENDITURE.	£. s. d.	INCOME.	£. s. d.
To Surveyor's Account of Day Labour, between the Day of and the Day of for Maintenance or Repair of Roads - - - - - - -		By Balance in Treasurer's Hands - - - - - - -	
To Surveyor's Account of Team Labour, between the Day of and the Day of - - -		By Amount of Rents received from the Lessees, or Tolls received from the Gatekeepers, between the Day of and the Day of as follows [*here specify the respective Gates and the different Amounts received.*] - - -	
To Surveyor's Account for Work executed by Contract, specifying the Amount done and the Rate of Contract paid - - -		By Amount of Statute Labour between the Day of and the Day of as follows [*here specify the Amount paid by each Parish, Hamlet, Township or Place.*] - - - - - - - - - - -	
To Surveyor's Accounts for Repair, or Maintenance, or Building of Houses, Gates or Bridges - - - - - - -		By Amount of Money borrowed on Security of Tolls [*if any.*] -	
To Surveyor's Account for Land purchased, or for Damages done -		By incidental Receipts - - - - - - - - -	
To Surveyor's Account for Rent of Quarries - - - -			
To Salaries and other Payments of Clerks, Surveyors, or other Officers - - - - - - - - - - - -			
To Printing, Advertising and Stationary - - - -			
To Interest of Debt - - - - - - - - -			
To incidental Charges - - - - - - - - -			
£.		£.	

GENERAL STATEMENT of DEBTS and CREDITS.

	£. s. d.		£. s. d.
An Account of the Amount of Debt bearing Interest - - -		Arrears of Rents [*or* Tolls] due, not received as under: *Insert the Names of the Lessees* [*or of Gates,*] *and when due. Also insert any other Monies due to the Trust on any other Account.*	
An Account of Interest due - - - - - - - -			
An Account of floating Debt - - - - - - -			
£.		£.	

ADDENDA

TO

PART VI. CLASS XXIII.

Justices of Peace.

[No. I.] 3 Geo. IV. c. 23.—An Act to facilitate Summary Proceedings before Justices of the Peace and others.—[15*th May* 1822.]

Geo. IV. c. 23.

General Form of Conviction, where no particular Form provided.

WHEREAS great inconveniences often arise in summary proceedings before justices of the peace, deputy lieutenants, and others, from the want of a general form of conviction: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act, in all cases wherein a conviction shall have taken place, and no particular form for the record thereof hath been directed, the justice or justices, deputy lieutenant or deputy lieutenants, or other person or persons duly authorised to proceed summarily therein, and before whom the offender or offenders shall have been convicted, shall and may cause the record of such conviction to be drawn up in the manner and form following, or in any words to the same effect, *mutatis mutandis;* (that is to say),

'County [*or, as the case may be*] of } BE it remembered, That on the day of in the year of our Lord at in the county of *A. B* of in the county of labourer, [*or, as the Case may be*] personally came before me, (*or*, before us, &c.) *C. D.* one [*or* more, *as the Case may be*] of his Majesty's Justices of the Peace for the said and informed me, (*or* us, &c.) that *E. F.* of in the county of on the day of at in the said did [*here set forth the Fact for which the Information is laid*] contrary to the form of the Statute in such case made and provided, whereupon the said *E. F.* after being duly summoned to answer the said charge, appeared before me, (*or* us, &c.) on the day of at in the said and having heard the charge contained in the said information, declared he was not guilty of the said Offence, [*or, as the Case may happen to be*], did not appear before me, (*or* us, &c.) pursuant to the said Summons, [*or*, did neglect and refuse to make any Defence against the said Charge]; whereupon I [*or* we, &c. *or* nevertheless I *or* we, &c.] the said Justice *or* Justices, did proceed to examine into the truth of the Charge contained in the said Information, and on the day of aforesaid, at the parish of aforesaid, one credible witness, to wit, *A. W.* of in the county of upon his oath deposeth and saith, [*if E. F. be present, say*, in the presence of the said *E. F.*] that, within months [*or, as the case may be*] next before the said Information was made before me (*or* us, &c.) the said Justice by the said *A. B.*, to wit, on the day of

No. I.
3 Geo. IV. c. 55.

' in the year the said *E. F.* at
' in the said county of [*here state the Evidence, and as*
' *nearly as possible in the Words used by the witness, and if more than one*
' *witness be examined, state the Evidence given by each*] [*or, if the defendant*
' *confess, instead of stating the Evidence say*] and the said *E. F.* acknow-
' ledged and voluntarily confessed the same to be true]; therefore it
' manifestly appearing to me (*or* us, &c.) that he the said *E. F.* is guilty
' of the offence charged upon him in the said Information, I (*or* we, &c.)
' do hereby convict him of the offence aforesaid, and do declare and ad-
' judge, that he the said *E. F.* hath forfeited the Sum of
' of lawful money of *Great Britain*, for the offence aforesaid, to be distri-
' buted [*or* paid, *as the Case may be*] according to the form of the Statute
' in that case made and provided. Given under my Hand (*or*, our hands,
' &c.) and Seal, the day of in the year of our
' Lord

One Justice, &c. may receive original Information, &c. where Two or more Justices, &c. empowered to hear nd determine.

II. And be it further enacted, That in all cases where two or more justices, deputy lieutenants or others, are authorised and required to hear and determine any complaint, one justice, deputy lieutenant, or such other person shall be competent to receive the original information or complaint, and to issue the Summons or Warrant requiring the parties to appear before two or more justices of the peace deputy lieutenants or others as the case may require; and after examination upon oath into the merits of the said complaint, and the adjudication thereupon, by any such two justices, deputy lieutenants, or other persons, being made, all and every the subsequent proceedings to enforce obedience thereto or otherwise, whether respecting the penalty, fine, imprisonment, costs, or other matter or thing now enacted or to be hereafter enacted, may be enforced by either of the said justices, deputy lieutenants, or other persons, or any other justice of the peace or deputy lieutenant for the same county, riding, or place, in such and the like manner as if done by the same two justices, deputy lieutenants, or other persons, who so heard and adjudged the said complaint; and where the original complaint or information shall be made to any justice or justices of the peace, deputy lieutenant or deputy lieutenants, or other person or persons different from him or them before whom the same shall be heard and determined, the form of conviction shall be made conformable and according to the fact.

Where the Merits have been tried, Convictions not to be set aside for Defect of Form.

III. And be it further enacted, That in all cases where it appears by the conviction that the defendant has appeared and pleaded, and the merits have been tried, and that the defendant has not appealed against the said conviction where an appeal is allowed, or if appealed against, the conviction has been affirmed, such conviction shall not afterwards be set aside or vacated in consequence of any defect of form whatever, but the construction shall be such a fair and liberal construction as will be agreeable to the justice of the case.

This Act not to extend to Scotland.

IV. And be it further enacted, That nothing herein contained shall extend, or be construed to extend, to that part of the United Kingdom called *Scotland*.

[No. II.] 3 Geo. IV. c. 55.—An Act for the more effectual Administration of the Office of a Justice of the Peace, in and near the Metropolis, and for the more effectual Prevention of Depredations on the River *Thames*, and its Vicinity, for Seven Years.—[*5th July* 1822.]

3 Geo. IV. c. 55.
1 & 2 G. 4. c. 118.

WHEREAS it is expedient that the provisions of an Act made in the last Session of Parliament, intituled "An Act for the more effectual Administration of the Office of a Justice of the Peace in and near the Metropolis, and for the more effectual Prevention of Depredations on the River *Thames* and its Vicinity, for One Year," should be continued and amended: May it therefore please your Majesty that it may be

No. II.
3 Geo. IV.
c. 55.

The Public Offices now established shall be continued.

Justices to act.

His Majesty may appoint Justices to fill up Vacancies.

Time of Attendance.

enacted; and be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That the several police offices now established in the parishes of *Saint Margaret Westminster*, *Saint James Westminster*, *Saint Mary-le-bone*, *Saint Andrew Holborn*, *Saint Leonard Shoreditch*, *Saint Mary Whitechapel*, and *Saint John Wapping*, in the county of *Middlesex*, and *Saint Saviour* in the county of *Surrey*, shall be continued; and that the several persons heretofore appointed to execute the duties of a justice of the peace at the police offices now established under the said recited Act, shall continue to execute the same at the said eight police offices, together with such other justices of the peace for the said counties respectively as may think proper to attend thereat; and that it shall be lawful for his Majesty, his heirs and successors, upon every vacancy, by death or otherwise, to appoint another fit person, being a justice of the peace of the said counties of *Middlesex* and *Surrey* respectively, to execute the duties of a justice of the peace at the said several police offices, in lieu of the person making such vacancy.

II. And be it further enacted, That one or more of the said justices so appointed shall diligently attend at each of the said police offices every day, from ten of the clock in the morning until eight of the clock in the evening, and at such other times and places as shall be found necessary, and directed by one of his Majesty's principal secretaries of state; and that two of the said justices shall in like manner attend together at each of the said offices from twelve of the clock at noon until three in the afternoon: Provided always, that no such attendance shall be given on *Sunday*, *Christmas Day*, *Good Friday*, or any day appointed for a public fast or thanksgiving, [illegible] necessity, or when it shall be directed by such principal secretary of state.

Receiver to be continued in Office; and in case of Death, His Majesty may appoint another in his Duty.

III. And be it further enacted, That the present receiver [illegible] for the said police offices shall continue [illegible] shall be lawful on any vacancy [illegible] in the said offices [illegible] other proper person [illegible] of the justices appointed to act at [illegible] of the said eight police offices; and the said receiver for the time being shall receive all fees penalties and forfeitures, and other sums of monies applicable to the purposes of this Act, and shall keep an exact and particular account of all such monies as shall be received by him, and shall apply the same quarterly in discharge of the salaries expences and charges attending the said police offices, and in carrying this Act into execution; and shall make all such contracts and disbursements as shall be necessary for purchasing hiring fitting up and furnishing proper and sufficient houses and buildings wherein the said eight police offices shall be held, in such manner as his Majesty his heirs and successors, by and with the advice and consent of his or their privy council, shall think proper to direct and appoint; of which houses and buildings so to be hired or purchased, and of all houses and buildings already hired or purchased for the like purposes, and of the fixtures and furniture thereof, and of all other necessaries to be held or purchased for the purposes of this Act, the property acquired therein shall be vested in the receiver for the time being, who shall and may sell assign and dispose of the same or any part thereof, under the like directions and appointment, as occasion shall require; and such receiver shall prepare proper plans and estimates of all such contracts and disbursements as shall be necessary for the purposes aforesaid, and shall deliver the same to one of his Majesty's principal secretaries of state; and such receiver shall further do and execute all such other lawful matters and things towards the establishment of the said eight police offices, and towards the carrying this Act into execution, as his Majesty his heirs and successors, by and with the advice of his or their privy council, shall from time to time think proper to direct.

No. II.
3 Geo. IV. c. 55.

IV. And be it further enacted, That the justices appointed as aforesaid, or any two of them in their respective offices, shall appoint retain and employ a sufficient number of fit and able men, subject to the approbation of one of his Majesty's principal secretaries of state, whom they are hereby authorised and empowered to swear in to act as constables, for preserving the peace and preventing robberies and other felonies, and apprehending offenders against the peace; which constables sworn shall within the counties of *Middlesex Surrey Essex* and *Kent*, have all such powers authorities privileges and advantages as any constable duly appointed now has or hereafter may have by virtue of any law or statute now made or hereafter to be made; and shall obey all such lawful cammands as they shall from time to time receive from the said justices respectively for the apprehending offenders, or otherwise conducting themselves in the execution of their offices; and such justices may at any time suspend or dismiss from his employment any such constable attached to their respective offices, whom they shall think remiss or negligent in the execution of his duty, or otherwise unfit for the same; and when any such constable shall be so dismissed, or cease to belong to any of the said offices, all powers and authorities vested in him as a constable under and by virtue of this Act shall immediately cease and determine, to all intents and purposes whatever.

Justices to employ Constables, subject to the Approbation of the Secretary of State.

V. And be it further enacted, That the justices appointed to the said police office in the parish of *Saint John Wapping*, commonly called the *Thames Police Office*, or any two of them, shall (subject to such approbation as aforesaid) appoint retain and employ any number of fit and discreet men, not exceeding thirty, who, under the name of *Thames* police surveyors, shall (being first duly sworn in manner above mentioned) have within the counties aforesaid the powers authorities privileges and advantages of a constable as aforesaid; and shall direct and inspect the conduct of the constables attached to the *Thames* Police Office, and of all persons to be employed in and about ships and vessels in the said river *Thames*, or in or on the several creeks wharfs quays and landing places thereto adjacent, and (subject to the orders of the said last-mentioned justices) shall have power by virtue of their offices to enter at all times, as well by night as by day, into and upon every ship boy barge lighter boat or other vessel (not being then actually employed in his Majesty's service) lying or being in the said river or creeks, and into every part of every such vessel for the purpose of inspecting, and upon occasion directing the conduct of any constable who may be stationed on board of any vessel, and of inspecting and observing the conduct of all other persons who shall be employed on board of any vessel in or about the lading or unlading thereof, as the case may be, and for the purpose of taking all such measures as may be necessary for providing against fire and other accidents, and preserving peace and good order on board of any such vessel, and for the effectual prevention in all cases of any felonies or misdemeanors being committed, and for the effectual detection of any felonies or misdemeanors which may have been committed, or which such surveyor may have reasonable cause to suspect to have been committed on board any such vessel; and the justices appointed to the said *Thames* Police Office may at any time suspend or dismiss any such *Thames* police surveyor whom they shall find remiss or negligent in the execution of his duty, or otherwise unfit for the same; and when any such surveyor shall be so dismissed or cease to belong to the said office, all powers and authorities vested in him as such surveyor under and by virtue of this Act, shall immediately cease and determine to all intents and purposes whatever.

Thames Police Surveyors to be appointed in like Manner.

VI. And be it further enacted, That it shall be lawful for his Majesty his heirs and successors to direct that such sum shall be issued quarterly out of the Consolidated Fund of the United Kingdom of *Great Britain* and *Ireland* to the said receiver, as will be sufficient to pay the yearly salary of six hundred pounds, clear of all fees or deductions, to each of the justices so appointed to attend at the said police offices for their

Justices to be allowed a Salary of 600*l.* per Annum.

No. II.

3 Geo. IV. c. 55.

Further Sums to be issued for Payment of Clerks, Constables, &c. and for Bow-street Office, and Horse and Foot Patrol.

time and trouble; and such further sums as may be necessary for the expences of the offices and for the payment of clerks constables surveyors and others herein employed, and for the payment of the expences of the public office in *Bow-street*, and of the magistrates clerks and constables and others therein employed, and of the horse and foot patrol acting under the orders of the chief magistrate of that office; provided that the whole of the said charges shall not exceed the annual sum of sixty-eight thousand pounds over and above the necessary disbursements for purchasing hiring repairing fitting up and furnishing the houses and buildings wherein the said offices shall be held; and that the said receiver out of the monies so issued to him, shall and may pay to the constables and surveyors so appointed as aforesaid for their trouble and attendance, such sum as may from time to time appear reasonable to one of his Majesty's principal secretaries of state, and any extraordinary expences they shall appear to have been necessarily put to in apprehending offenders, and executing the orders of the justices acting under and by virtue of this Act; such extraordinary expences being first examined and approved of by the justices attending the police office to which such constables shall be respectively attached; and such further sum for rewarding the extraordinary diligence or exertion of any of the said constables or surveyors, and for compensating them for wounds or severe injuries received in the performance of their duties, and for an allowance to such of them as shall be completely disabled by bodily injury received, or shall be worn out by length of service, as shall be directed by such principal secretary of state.

No Justice shall take Fees but at the Public Offices.

VII. And be it further enacted, That no justice of the peace for the county of *Middlesex* county of *Surrey* city and liberty of *Westminster* or liberty of the Tower of *London*, or his clerk, or any person on their behalf, elsewhere than at the said police offices, shall directly or indirectly upon any pretence or under any colour whatever, take or receive any fee [illegible] for any Act by him or them done or to [illegible] ustice of the [illegible] ekly bills of [illegible] *dington Saint* [illegible] ty of *Middle-* [illegible] ds for every [illegible] pplied to the [illegible] full costs of suit, to the person who shall sue for the same in any of his Majesty's courts of record at *Westminster*, by action of debt bill plaint or information, wherein no essoin privilege wager of law or more than one imparlance shall be allowed: Provided always, that nothing in this Act contained shall be construed to extend to any fees taken at any general or quarter sessions of the peace, or at any meeting of justices for the purpose of licensing alehouses, or to any fees taken at the said public office in *Bow-street*, or to any fees taken by the vestry clerk of any parish for the purpose of enforcing the payment of any taxes or assessments arising within the same parish, or for the purpose of hearing and determining any offence cognizable before justices of the peace, by virtue of any statute made and provided for the special regulation or government of such parish.

Not to extend to Fees at Quarter Sessions, or Meeting of Justices for licensing Ale-houses, or to Fees taken at the Office in Bow-street, &c.

Table of Fees to be hung up.

26 G. 2. c. 14.

27 G. 2. c. 16.

VIII. And be it further enacted, That in some conspicuous part of each of the said police offices and also of the said public office in *Bow Street*, there shall be affixed a table of the fees which may legally be taken at such offices respectively under an Act passed in the twenty-sixth year of the reign of King *George* the Second, intituled 'An Act for the settling and ascertaining the Fees to be taken by Clerks to Justices of the Peace;' and under another Act passed in the twenty-seventh year of the reign of King *George* the Second, intituled 'An Act for making perpetual several Laws for punishment of Persons destroying Turnpikes Locks or other Works erected by Authority of Parliament; and that all Acts made for erecting Courts of Conscience shall be deemed Public

Acts; and to empower a certain Number of the Trustees of the *British Museum* to do certain Acts; and for confirming the Tables of Fees to be taken by the Clerks to the Justices of the Peace for the County of *Middlesex*; and for giving further time for the Payment of Duties omitted to be paid for the Indentures or Contracts of Clerks and Apprentices; and for filing Affidavits in the Execution of Contracts of Clerks to Attornies and Solicitors; and for preventing Persons driving certain Carriages from riding upon such Carriages;' and that it shall be lawful for any justice at such offices respectively to refuse to do any Act for which any fee shall be demandable, unless such fee shall be first paid; and that if any such Act shall be done and the fee due thereon shall not be paid, it shall be lawful for any justice of the peace to summon the person from whom such fee shall be due and to make order for payment of the same, with the costs of the proceedings, and in default of payment to levy the same, with the costs of the distress, by warrant under his hand and seal.

Account of Fees and Forfeitures received at the Police Offices shall be delivered quarterly to the Receiver, and the Amount thereof paid to him.

IX. And be it further enacted, That the justices so appointed to attend at the said police offices and their clerks respectively, shall in books to be provided for that purpose, keep a full true and particular account of all fees taken and received at each of the said offices, together with all penalties and forfeitures which shall have been recovered levied or received in pursuance of any adjudication conviction or order had or made at any of the said offices, or any process or warrant issuing from the same; to which books of account the said receiver shall at all times have free access; and the said justices shall once in every quarter of a year deliver unto such receiver such account verified upon oath by such justice or justices clerk or clerks, or such other person or persons as shall be employed in keeping such accounts respectively, or any part thereof, before some justice of the peace for the said county of *Middlesex* or county of *Surrey*, and shall pay the amount of all such fees unto such receiver, to be applied in manner hereinbefore mentioned.

All Penalties (except to Informers or Parties aggrieved) recovered at the Police Offices, shall be paid to the Receiver.

X. And be it further enacted, That all such penalties and forfeitures and shares of penalties and forfeitures as are by any Act now in force, or shall be by any future Act (unless it shall contain express words to the contrary) limited and made payable to his Majesty his heirs and successors, or to any description of persons other than the informer or informers who shall sue for the same, or any party aggrieved, and which shall be recoverable in a summary way before a justice or justices of the peace, and which shall be recovered or adjudged before any justice or justices at either of the said eight police offices, or at the said public office in *Bow Street*, shall be accounted for and paid into the hands of the said receiver by the justice clerk constable officer or other person or persons who shall levy or receive the same, to be applied by such receiver in manner hereinbefore mentioned.

If Fees and Penalties are not accounted for, Receiver may sue for the same in any Court of Record.

XI. And be it further enacted, That if the justices appointed as aforesaid, or any other person having received any such fees at any of the said police offices, shall neglect to account for and pay the same in manner aforesaid; or if any justice justice's clerk constable officer or other person who shall levy or receive such penalties or forfeitures or shares of penalties or forfeitures, shall neglect to pay the same into the hands of such receiver; or if any person having resigned any such office of receiver or having been removed from the same shall neglect within twenty-one days after notice for that purpose to account for and pay into the hands of the succeeding receiver all such sums of money as shall remain in his hands applicable to the purposes of this Act; it shall be lawful for such receiver for the time being in his own proper name only or by his name and description of office to sue for and recover the same with double costs of suit in any of his Majesty's courts of record at *Westminster*, by action of debt, in which action it shall be sufficient for such receiver to declare as for money had and received to the use of such receiver for the purposes of this Act; and the defendant or defendants in such action may, at the discretion of any judge of such court, be held to special bail in such competent sum as such judge shall order and direct; and in any such action the court in which such action shall be

No. II.
3 Geo. IV.
c. 55.

brought may, if such court shall think proper, at the instance of either of the parties, refer the account in dispute in a summary manner to be audited by any officer of the court or other fit person at their discretion, who may examine both plaintiff and defendant upon oath, (which oath the said referee shall have power to administer; and upon the report of such referee, unless either of the parties shall shew good cause to the contrary, such court may make a rule either for the payment of such sum as upon such report shall appear to be due, or for staying the proceedings in such cause, and upon such terms and conditions as to the same court shall appear reasonable and just; or may order judgment to be entered up by confession for such sum as upon such report shall appear to be due.

Receiver may sue for Money in the Hands of deceased Receivers, and recover from Executors.

XII. And be it further enacted, That in case of the death of any such receiver or of any person having resigned or been removed from such office, or of any of the other persons whom the said receiver for the time being is authorised to sue as aforesaid, in every such case the receiver for the time being may, in his own proper name only, or by his name and description of office sue for and recover such sum of money as shall have been remaining in the hands of such deceased receiver or other person applicable to the purposes of this Act, or the executors or administrators of such person deceased; in which action it shall be sufficient for the plaintiff to declare that the deceased was indebted to the plaintiff for money had and received to his use for the purposes of this Act, or that the deceased died possessed of money had and received for the purposes of this Act, whereby an action accrued to the plaintiff to demand and have the same of such executors or administrators; and the like action shall and may be brought against any executors or administrators of executors or administrators; in all which actions the defendant or defendants may plead in like manner and avail themselves of the like matters in their defence as in any action founded upon simple contracts of the original testator or intestate; and in all [illegible] be brought [illegible] 's acting in [illegible] holding the [illegible] defendant or [illegible]

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Allowance to the Receiver.

monies by him received and paid as aforesaid, with vouchers for the same; which account shall be verified upon oath before some justice or baron of one of his Majesty's courts of record at *Westminster*; and such receiver for his care and pains in the execution of such office shall and may retain to his own use out of the monies so received by him as aforesaid, a sum not exceeding four hundred pounds.

Justices not to sit in Parliament.

No Justice, Receiver, Surveyor, or Constable to vote at certain Elections.

Penalty, 100*l.*

XIV. And be it further enacted, That no justice appointed as aforesaid shall, during his continuance in such appointment, be capable of being elected or of sitting as a member of the house of commons; and that no justice receiver surveyor or constable appointed by virtue of this Act, shall during the time that he shall continue in his office respectively, or within six months after he shall have quitted the same, be capable of giving his vote for the election of a member to serve in Parliament for the counties of *Middlesex* or *Surrey*, or for the city and liberty of *Westminster*, or the borough of *Southwark* respectively; nor shall by word message writing or in any other manner endeavour to persuade any elector to give or dissuade any elector from giving his vote for the choice of any person to be a member to serve in Parliament for the said counties city or borough; and every such justice receiver surveyor or constable offending therein shall forfeit the sum of one hundred pounds; one moiety thereof to the informer and the other moiety thereof to the use of the poor of the parish or place where such offence shall be committed; to be recovered by any person that shall sue for the same by action of debt bill plaint or information in any of his Majesty's courts of record at

No. II.
3 Geo. IV.
c. 55.

Westminster, in which no essoin protection privilege wager of law or more than one imparlance shall be allowed; such action to be brought within the space of one year after such offence committed: Provided nevertheless, that nothing in this Act shall extend to subject any such justice receiver surveyor or constable to any penalty for any Act done by him at or concerning any of the said elections in the discharge of his duty in the said respective capacities.

Acts directed to be done by a Justice where an Offence is committed, may be done by a Justice in the next Police Office.

XV. And be it further enacted, That where by any law now in being or hereafter to be made, any act is directed or authorised to be done by any justice or justices of the peace residing in or near or next the parish or place where any offence or other matter cognizable before them shall be committed or shall arise, the same jurisdiction shall and may be exercised by a justice or justices acting in such of the said police offices as may be situated next or near such parish or place.

His Majesty in Council may alter the situation of the Offices.

XVI. And be it further enacted, That it shall be lawful for his Majesty his heirs and successors by and with the advice of his or their privy council, to make such alterations in the places where any of the said police offices shall be situated or to make such alterations in the hours of attendance therein, and to make all such other regulations to be observed in conducting the same as he or they from time to time shall think proper.

For the Regulation of Fairs.

XVII. And whereas divers fairs are held within the city and vicinity of *London*, by charter or prescription, and other fairs without any lawful authority, which lead to scenes of riot disorder debauchery and crime, and it is expedient to regulate such fairs as are legally held, and to suppress such as have no lawful origin; be it therefore enacted, That all fairs held within ten miles of *Temple Bar*, all business and amusements of all kinds shall cease at the hour of eleven in the evening, and not recommence earlier than the hour of six in the morning; and that if any house shop room booth standing tent caravan waggon or other place shall during the continuance of any such fair as aforesaid, be open within the hours hereinbefore prohibited for any purpose of business or amusement in the place where such fair shall be held, or within three hundred yards thereof, then it shall be lawful for any constable or other peace officer within his jurisdiction to take into custody the master or mistress or other person having the care government or management of any such house shop room booth standing tent caravan waggon or other place, and also every person being therein and who shall not quit the same forthwith upon being bidden by any such constable or other peace officer so to do, and to convey every such person so taken, as soon as conveniently may be, before a justice of the peace, who shall proceed to hear the complaint in a summary way; and every person convicted before any such justice, as the master mistress or person having the care government or management of any such house shop room booth standing tent caravan waggon or other place, shall forfeit and pay the sum of five pounds; and every person so convicted as having been therein and not quitted the same forthwith upon being bidden by a constable or other peace officer so to do, shall forfeit and pay the sum of forty shillings; and if the party so convicted shall not immediately pay the penalty, the justice shall commit him or her to hard labour in the house of correction for any space of time not exceeding three months, nor less than six days, unless the penalty shall be sooner paid; and if there shall appear to any two justices, within their respective jurisdictions, reason to believe that any fair usually held within the distance aforesaid, has been held without charter prescription or other lawful authority, or that any fair lawfully held within the said distance has been usually held for a longer period than is warranted by charter prescription or other lawful authority, it shall be competent to them to summon the owner or occupier of the ground upon which such fair is usually held, to appear before such justices as may be present at some petty sessions to be held at the time and place to be specified in the summons, not less than eight days after the service of the summons, to shew his right and title to hold such fair, or to hold such fair beyond a given period (as the case may be); and if

Penalty on keeping open Houses, &c. within the Hours prohibited, 5*l.* for the Master, and on any Person refusing to quit, 40*s.*

Fairs held without lawful Authority to be enquired into.

No. II.
3 Geo. IV.
c. 55.

If declared unlawful, Booths, &c. to be removed.

such owner or occupier shall not attend in pursuance of such summons, or shall not shew to the justices present at such petty sessions sufficient cause to believe that such fair has been held by lawful right and title for the whole period during which the same has been usually held, such justices shall declare in writing such fair to be unlawful, either altogether or beyond a stated period (as the case may be), and shall give notice of such their declaration by affixing copies thereof on the parish church, and on the most public places in and near the ground where such fair has been usually held; and if after such notices shall have been affixed for the space of six days, any attempt shall be made to hold such fair, if it shall be declared altogether unlawful, or to hold it beyond the prescribed period, if it shall be declared unlawful beyond a certain period, any justice of the peace within his jurisdiction may, by his warrant, direct any constable or other peace officer to remove every booth standing and tent and every carriage of whatsoever kind conveyed to or being upon such ground for the purpose of holding or continuing such fair, and to take into custody every person erecting pitching or fixing, or assisting to erect pitch or fix any such booth standing or tent, and every person driving accompanying or conveyed in every such carriage, and every person resorting to such ground with any exhibitions shows swings roundabouts whirligigs or other instruments of gambling or amusement, and to carry every person so taken before the justice granting such warrant, or before some other justice, who shall proceed to hear the complaint in a summary way; and every person convicted before any such justice of any of the offences last aforesaid, shall forfeit and pay any sum not exceeding ten pounds, nor less than twenty shillings; and if the party so convicted shall not immediately pay the penalty, the justice shall commit him or her to hard labour in the house of correction for any space of time not exceeding three months, nor less than six days, unless the penalty shall be sooner paid: Provided nevertheless, that if the owner or occupier of the ground whereon any such fair has been usually held, shall when summoned before the justices at their petty sessions as

Penalty not exceeding 10*l.* nor less than 20*s.*

On entering into Recogni-

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hereby authorised to award, then notwithstanding the justices shall declare such fair to be unlawful, they shall forbear from giving notice of such their declaration, and from taking any further measures thereon until judgment shall be given by the said court against the right and title to such fair; and the justices taking such recognizance shall forthwith transmit the same to one of his Majesty's principal secretaries of state, to the end that the same may be filed in the said court, and such further directions may be given thereon as to such secretary of state may seem fit and necessary.

Regulations as to Coffee Shops.

XVIII. And whereas it hath become a practice of late to open shops or rooms for the sale or under the pretence of selling ready-made coffee tea and other liquors, and to keep such shops or rooms open during the whole or the greatest part of the night, thereby affording shelter and accommodation to thieves prostitutes and other disorderly persons, and tending greatly to the encouragment of robberies and to the concealment of stolen property; be it further enacted, That no shop room or place for the purpose aforesaid, within the city of *London* or the liberties thereof, within the limits of the weekly bills of mortality, or within any of the parishes hereinbefore mentioned, shall be kept open after the hour of eleven at night during any part of the year, nor opened before the hour of four in the morning between *Lady Day* and *Michaelmas*, or before six in the morning between *Michaelmas* and *Lady Day*; and if any such shop room or place shall be open within the hours hereinbefore

prohibited, or being shut up, if any person shall during those hours be found therein, except the persons actually dwelling there or having lawful excuse for being there, then the master mistress waiter or other person having the care government or management of such shop room or place, whether he or she be the real owner or keeper thereof or not, shall forfeit and pay any sum not exceeding ten pounds, nor less than twenty shillings, upon conviction of any such offence before any justice of the peace by confession or upon the oath of one or more credible witness or witnesses; and if the party so convicted shall not immediately pay the said penalty, the justice shall commit him or her to hard labour in the house of correction for any space of time not exceeding three months, nor less than six days, unless the said penalty shall be sooner paid; and the said penalty, when paid, shall be distributed, one moiety to the informer and the other moiety to the chamberlain of the city of *London*, if the offence be committed in the said city, and if out of the said city, then to the said receiver for the purposes of this Act: Provided always, that nothing herein contained shall apply to or affect any house duly licensed for the sale of wines and spirituous liquors; and that no such conviction shall exempt the owner keeper or manager of any such shop room or place from any penalty or penal consequence whereto he or she may be liable for keeping a disorderly house.

Penalty not exceeding 10*l.* nor less than 20*s.*

Application of Penalty.

Not to affect Houses for the Sale of Wines and Spirits.

XIX. And be it further enacted, That if any person shall within the city of *London* and liberties thereof, or within the limits and parishes aforesaid, blow any horn or use any other noisy instrument for the purpose of hawking selling or distributing any article whatsoever, it shall be lawful for any constable headborough patrol watchman or other person to apprehend every person so offending and convey him before any justice of the peace, who shall proceed to examine upon oath any witnesses appearing to give evidence touching such offence; and if the party accused shall be convicted of such offence, then and in every such case he shall for every such offence forfeit and pay any sum not exceeding forty shillings, nor less than ten shillings, to be applied in such manner as such justice shall direct; and in case the offender shall not upon conviction forthwith pay the penalty, such justice is hereby required to commit such offender to the house of correction, there to be kept to hard labour for any time not exceeding ten days, nor less than three days, unless the penalty shall be sooner paid.

Prohibiting the blowing of Horns.

Penalty not exceeding 40*s.* nor less than 10*s.*

XX. And be it further enacted, That every conviction for the offences aforesaid shall be in the following form of words, or in some other form of words to the like effect:

Form of Conviction.

'BE it remembered, That on the day of in the year of our Lord *A. B.* is brought before me [*or*, having been duly summoned has neglected to appear before me] *C. D.* Esquire, one of his Majesty's justices of the peace in and for the county of [*or* city *or* liberty *or* place, *as the case may be*] and is charged before me the said justice with having [*here describe the offence*] and it appearing to me the said justice upon the confession of him the said *A. B* [*or*, upon the oath of a credible witness, *as the case may be*] that the said *A. B.* is guilty of the said offence; I do therefore adjudge the said *A. B.* to forfeit and pay the sum of ; and in default of payment to be imprisoned in the house of correction at and there kept to hard labour for the term of unless the said penalty shall be sooner paid; and I do hereby direct that the said penalty shall, when paid, be applied to [*here direct the mode*]. Given under my hand and seal the day and year first above written.'

XXI. And whereas ill-disposed and suspected persons and reputed thieves frequent the parks fields streets highways and places adjacent and divers places of public resort, and the avenues leading thereto, within the city of *London* and the liberties thereof, the limits of the weekly bills of mortality, and the said parishes of *Saint Mary-le-bone Paddington Saint Pan-*

Constables may apprehend suspected Persons.

No. II.
3 Geo. IV.
c. 55.

cras Kensington and *Saint Luke Chelsea*, and also the said river *Thames*, and the docks and creeks quays and warehouses adjacent thereto, and the streets highways and avenues leading to the said river docks creeks quays and warehouses, with intent to commit felony on the persons or property of his Majesty's subjects; and although their evil purposes are sufficiently manifest, the power of his Majesty's justices of the peace to demand of them sureties for their good behaviour hath not been of sufficient effect to prevent them from carrying their evil purposes into execution; be it further enacted, That it shall be lawful for any constable headborough patrol watchman or other person to apprehend every such suspected person or reputed thief, and convey him or her before any justice of the peace; and if it shall appear before the said justice upon the oath of one or more credible witness or witnesses that such person is a person of evil fame and a reputed thief, and such person shall not be able to give a satisfactory account of himself or herself, and of his or her way of living, and it shall also appear to the satisfaction of the said justice that there is just ground to believe that such person was in or on such park field street highway river dock creek quay warehouse avenue or other place as aforesaid, with such intent as aforesaid, every such person shall be deemed a rogue and vagabond within the intent and meaning of an Act made in the present session for consolidating and amending the laws relating to rogues vagabonds and other idle and disorderly persons.

Form of Conviction.

XXII. And be it further enacted, That every such conviction shall be in the following form of words, or in some other form of words to the like effect:

'BE it remembered, That on the day of in the year of our Lord *A. B.* is brought 'before me *C. D.* Esquire, one of his Majesty's justices of the peace in 'and for the county of [*or* city liberty *or* place, *as the* '*case may be*] and charged before me the said justice with being a rogue 'and vagabond, he the said *A. B.* having been apprehended on the [illegible] called [illegible], *et cetera*, [illegible] on the oath [illegible] *A. B.* is a [illegible] on his ex- [illegible] account of [illegible] the satis- [illegible] believe that 'the said *A. B.* was in such as aforesaid with intent to commit 'felony on the person or property of his Majesty's subjects there being; 'I do therefore in pursuance of an Act passed in the third year of the 'reign of king *George* the Fourth, intituled [*here insert the title of this* '*Act*] convict him the said *A. B.* of the said offence and adjudge him to 'be a rogue and vagabond within the intent and meaning of the statute 'made in the same year, intituled "An Act for consolidating into One 'Act, and amending the Laws relating to idle and disorderly Persons, 'Rogues and Vagabonds, incorrigible Rogues, and other Vagrants, in '*England*;" and that he for his said offence be committed to the house 'of correction at until the next general [*or* quarter, *as the* '*case may be*] sessions of the peace to be holden for the said county [city '*or* place, *as the case may be*] then and there to be further dealt with ac- 'cording to law. [*If the party be committed for a less time than until the* '*sessions, then say*, there to remain for the space of]
'Given under my hand and seal the day and year first above written.'

Conviction not to be quashed for want of Form, or removable by Certiorari.

XXIII. And be it further enacted, That no conviction under this Act, for any of the offences aforesaid, shall be quashed or set aside or adjudged void or insufficient for want of form; nor shall the same be removed by certiorari into his Majesty's Court of King's Bench; but that in all cases where the penalty shall exceed the sum of five pounds or one month's imprisonment, if any person shall think himself aggrieved by such con-

viction, such person may appeal to the justices of the peace at the next general or quarter sessions of the peace to be held for the county or city wherein the cause of complaint shall have arisen, such person at the time of his conviction entering into a recognizance with two sufficient sureties, conditioned personally to appear at the said sessions to try such appeal, and to abide the further judgment of the justices at such sessions assembled; and in case any such conviction of a reputed thief shall be affirmed at such sessions, the said justices may adjudge the offender to be a rogue and vagabond, and proceed against him or her in the same manner as they might have done if such rogue and vagabond had been committed to the house of correction until such general or quarter sessions; and in case such offender shall not appear pursuant to the said recognizance, the person so convicted by such justice shall be deemed an incorrigible rogue within the intent and meaning of the said last-recited Act; and the justices at such sessions, or any two of them, shall issue their warrant to apprehend and commit the person so deemed an incorrigible rogue to some house of correction or common gaol within their jurisdiction, there to remain until the next general or quarter sessions for the said county city or liberty, as the case may be, then and there to be further dealt with according to law.

Appeal to Quarter Sessions, &c.

XXIV. And whereas by an Act passed in the twenty-first year of his late Majesty's reign, intituled 'An Act to prevent the Mischiefs that arise from driving Cattle within the Cities of *London* and *Westminster*, and Liberties thereof, and Bills of Mortality, a penalty not exceeding twenty shillings nor less than five shillings is imposed on every person not being hired or employed to drive cattle, who pelts with stones or brickbats or by any other means drives or hunts away or sets any dog or dogs at any ox heifer cow steer or other cattle without the consent of the owner of the same or his servant: And whereas the said penalty has been found insufficient to deter evil-disposed persons from the practice of hunting bullocks; Be it therefore further enacted, That if any person shall pelt drive or hunt, or set any dog or dogs at any ox heifer cow or steer contrary to the provisions of the said last-recited Act, such person shall upon being convicted thereof according to the same Act, forfeit and pay on the first conviction any sum not exceeding forty shillings nor less than twenty shillings, and on the second and every future conviction any sum not exceeding five pounds nor less than fifty shillings to the person or persons who shall prosecute such offender to conviction, and in default of payment shall be committed to the house of correction, there to be kept to hard labour for any time not exceeding two months on the first conviction, nor five months on the second and every future conviction, in the manner prescribed by the said last-recited Act.

Penalty for Bullock-hunting increased, 21 G. 3. c. 67

XXV. And whereas it is expedient that the officers of the said public office in *Bow-street*, and the horse and foot patrol acting under the orders of the chief magistrate of that office shall be sworn in as constables, and be empowered to act within the said several counties of *Middlesex Surrey Essex* and *Kent*; Be it therefore further enacted, That it shall and may be lawful for the said chief magistrate to administer to such persons respectively an oath duly to execute the office of constable within the counties aforesaid; and each of such persons being sworn shall have power to act as a constable for the preservation of the peace and for the security of property against felonious and other unlawful modes of obtaining the same within any and every of the said several counties, and for apprehending offenders against the peace as well by night as by day; and shall have all such powers and authorities privileges and advantages as any constable duly appointed now has or hereafter may have within his constablewick: Provided always, that when any such constable shall be dismissed from his said employment or cease to belong to the said police office in *Bow-street*, all powers and authorities allowances emoluments privileges and advantages vested in the persons so dismissed or ceasing to belong to the said office, shall immediately cease and determine.

Officers and Patrols of Bow-street Office to act as Constables.

XXVI. And be it further enacted, for the purpose of ensuring competency and fidelity in the watchmen and patrols employed by the alder-

For Regulation of Parish-Watchmen, &c.

No. II.
3 Geo. IV.
c. 55.

men and common council of the city of *London*, and the vestries and other parochial and local authorities within the limits of the weekly bills of mortality and the parishes hereinbefore mentioned, when any case of incompetency negligence misconduct or delinquency shall appear to any two justices of the peace acting within the said city or limits and parishes, against any such watchman or patrol, it shall be lawful for the said two justices by writing under their hands and seals to declare the same, and to pronounce the man so found incompetent or guilty of such negligence misconduct or delinquency to be either suspended for a limited time or absolutely dismissed from his office, as they shall think proper, and to give notice of such suspension or dismissal to the alderman and common council of the ward, if in the city of *London*, or to the vestry or other authority by whom such watchman or patrol was appointed, if elsewhere; and every such watchman or patrol shall be incapable of being re-appointed, either for the same or any other ward parish or place, while such suspension or dismissal shall remain in force; and if no watchman or patrol shall be appointed by the alderman and common council of the ward, or by the vestry or other proper authority at their next meeting after such notice shall be delivered to the deputy of the ward or to the clerk or secretary of such vestry, or other proper authority, or left at the house or office where their business is usually transacted, the said justices shall appoint a successor who shall exercise and enjoy the said duties and powers, and receive the same pay emolument and allowances, as if regularly appointed.

No Watchman or Patrol to be appointed above the Age of 40, &c.

XXVII. And be it further enacted, That no man shall hereafter be appointed within the limits and parishes aforesaid, by any authority whatsoever, to be a watchman or patrol who shall be above the age of forty years, unless he shall have been previously and up to the time of such appointment employed in the said horse or foot patrol.

Allowance to superannuated

XXVIII. And be it further [illegible] wful for the alder[illegible] the city of [illegible] perannuated [illegible] paid out of [illegible] ministration [illegible] be lawful [illegible] any watchhouse within [illegible] between the hours of eight in the afternoon and [illegible] in the forenoon to take bail by recognizance, without any fee or reward from any person who shall be brought into his custody within the said hours without the warrant of a justice, charged with any petty misdemeanor, if such constable shall deem it prudent to take such bail for the appearance of such person before the justices at the said public office in *Bow-street*, or at one of the said police offices to be specified in the recognizance, for examination at the hour of ten in the forenoon next after such recognizance shall be taken, unless that hour shall fall on a *Sunday*, or on one of the days of absence allowed by this Act, and in that case at the like hour on the succeeding day; and that every recognizance so to be taken shall be of equal obligation on the parties entering into the same, and liable to the same proceedings for the estreating thereof as if the same had been taken before one of his Majesty's justices of the peace; and the constable or headborough shall enter in a book to be kept for that purpose in every watchhouse the names residence and occupation of the party and his sureties entering into such recognizance, together with the condition thereof, and the sums respectively acknowledged, and shall lay the same before such justice as shall be present at the time and place when and where the party is required to appear; and if the party does not appear at the time and place required or within one hour after, the justice shall cause a record of the recognizance to be drawn up to be signed by the constable or headborough, and shall return the same to the next general or quarter sessions of the peace, with a certificate at the back thereof, signed by such justice, that the party has not complied with the obligation therein contained, and the clerk of the peace shall make

In Default of Appearance Recognizance to be forfeited.

the like estreats and schedules of every such recognizance as of recognizances forfeited in the sessions of the peace; and if the party not appearing shall apply by any person on his behalf to postpone the hearing of the charge against him, and the justice shall think fit to consent thereto, the justice shall be at liberty to enlarge the recognizance to such further time as he shall appoint; and when the matter shall be heard and determined either by the dismissal of the complaint or by binding the party over to answer the matter thereof at the sessions, or otherwise, the recognizance for the party's appearance before the justices shall be discharged without fee or reward.

Time of Hearing may be postponed.

XXX. And be it further enacted, That if any person shall wilfully destroy or damage or endeavour to destroy or damage, or be wilfully concerned in destroying or damaging, or endeavouring to destroy or damage any boat belonging to or hired or employed by or by the authority of the justices appointed to attend at the *Thames* police office, or any part of the sails oars or other tackle stores goods or furniture contained in or belonging to any such boat, every person so offending shall forfeit and pay for every boat so destroyed or damaged or attempted to be destroyed or damaged, or of which any of the tackle or other contents shall have been so destroyed or damaged or attempted to be destroyed or damaged, any sum not exceeding thirty pounds, or shall suffer imprisonment for any time not exceeding three months, over and above any such damages as may be recoverable by action at law against any such offender.

Penalty for damaging, &c. Boats belonging to Thames Police.

XXXI. And be it further enacted, That it shall be lawful for every such *Thames* police surveyor (subject to the orders of the said justices appointed to attend the *Thames* police office) having just cause to suspect that any felony has been or is about to be committed in or on board of any ship hoy barge lighter boat or other vessel lying or being in the said river docks or creeks, to enter at all times, as well by night as by day, into and upon every such ship hoy barge lighter boat or other vessel, and therein to take all necessary measures for the effectual prevention or detection of all felonies which he has just cause to suspect to have been or to be about to be committed in and upon the said river docks or creeks, and to apprehend and detain all persons suspected of being concerned in such felonies, and also all property so suspected to be stolen, and the same to produce before some justice, to be dealt with according to law.

Surveyors having just Cause to suspect Felony may enter on Vessels and take up suspected Persons.

XXXII. And be it further enacted, That it shall be lawful for every such *Thames* police surveyor, at any time between sun-rising and sun-setting, to enter any ship or vessel (except his Majesty's ships) in the said river docks and creeks, and to search the same for unlawful quantities of gunpowder, and also to exercise the same powers of seizing removing to proper places and detaining all such unlawful quantities of gunpowder found on board any such ship or vessel, and the barrels or other packages in which such gunpowder shall be, as are given to persons searching for unlawful quantities of gunpowder under a warrant of a justice, by virtue of an Act passed in the twelfth year of his late Majesty's reign, intituled 'An Act to regulate the making keeping and Carriage of Gunpowder within *Great Britain*, and to repeal the Laws heretofore made for any of those purposes.'

Unlawful Quantities of Gunpowder may be seized.

12 G. 3. c. 61.

XXXIII. And be it further enacted, That it shall be lawful for any *Thames* police constable or surveyor, or any other peace officer within his jurisdiction, to stop search and detain in some place of safety, any boat craft or vessel which there shall be reason to suspect of having therein any of his Majesty's naval stores, or any ropes cordage tackle apparel furniture stores materials, or any part of any cargo or lading, or any lead iron copper brass bell-metal pewter solder or other article stolen or unlawfully procured; and also to apprehend search and detain any person who may be reasonably suspected of having or conveying any such articles in such boat craft or vessel, or on land, and to convey every such person so apprehended (as soon as conveniently may be) before some

Where Boats are suspected to have any Naval stores, stolen Ropes, &c. on board, they may be detained, and the Persons suspected of having conveyed the stolen Articles on board may be taken before a Justice, &c.

No. II.
3 Geo. IV.
c. 55.

On Information that there is reasonable Cause for suspecting that any of the Cargo of any Vessel, or any of his Majesty's stores, &c. have been unlawfully obtained, and are concealed, how to proceed.

justice of the peace; and if such person shall not give an account to the satisfaction of such justice how he or she came by the same, then the person so apprehended shall be deemed and adjudged guilty of a misdemeanor, and shall suffer as hereinafter mentioned; and such boat craft or vessel, with her tackle apparel furniture and loading, shall upon such conviction, be forfeited and disposed of as is hereinafter directed.

XXXIV. And be it further enacted, That if on information given on oath it shall appear to any justice that there is reasonable cause for suspecting that any such articles as aforesaid, after having been so stolen or unlawfully obtained, are concealed or otherwise lodged in any dwelling-house warehouse yard garden or any other place, it shall be lawful for such justice, by special warrant under his hand and seal, directed to any *Thames* police constable or surveyor as aforesaid, or other constable within his jurisdiction, to cause every such place to be searched at any time of the day, or by night, if power for that purpose be especially given in and by such warrant; and the said justice, if it shall appear to him necessary, may moreover empower such constable or surveyor, with any such assistance as to the said justice may appear, or by such constable or surveyor may be found necessary (such constable or surveyor having previously made known such his authority) to use force for the effecting of such entry, whether by breaking open doors or otherwise; and if upon search thereupon made any such suspected article shall be found, then to convey the same forthwith to and before a justice, or to guard the same on the spot while the offenders are taken before a justice, or otherwise dispose thereof in some place of safety, subject to the orders of a justice in manner above mentioned; and moreover to apprehend and convey before the said justice the person or persons in whose house lodging or other place the same shall so have been found, as also every other person found in such house lodging or place, who shall appear to have been privy to the depositing of such article in such place, knowing or having reasonable cause to suspect the same to have been stolen or otherwise unlawfully obtained; and if such persons respectively shall not immediately or within some reasonable time to be assigned by the justice, make it appear to the satisfaction of the justice by what lawful means such article or articles came to be deposited or situated in such place as aforesaid, without any default on the part of such persons respectively, then and in such case the person or persons in whose house lodging or other place any such suspected article was found, and also every other person so appearing to have been privy to the depositing thereof, knowing or having cause to suspect the same to have been stolen, or otherwise unlawfully obtained, shall be deemed and adjudged guilty of a misdemeanor, and shall suffer as hereinafter mentioned.

Party from whom Goods bought to be examined by the Justice.

If Goods are found to be unlawfully obtained, Party adjudged to be guilty of a Misdemeanor.

XXXV. Provided always, and be it further enacted, That if any person, on being so produced before any justice to give an account of any articles seized and detained, in any of the cases aforesaid, shall declare himself or herself to have bought received or otherwise obtained such articles of some other person, such justice is hereby authorised and required to examine every such other person, and also every other prior purchaser or pretended purchaser; and if upon the whole evidence it shall appear to such justice, that the party suspected, or the party upon whom such articles were found, or the person so produced, or such prior purchaser or pretended purchaser, or any of them, at the time of his or her receiving such articles into his or her possession, did believe or had reasonable cause to believe that such articles, or any part thereof, were at any time and by any person unlawfully come by or obtained, it shall be lawful for such justice to adjudge such party to be guilty of a misdemeanor, and the party so convicted shall thereupon suffer as hereinafter mentioned.

Masters of Vessels between Westminster Bridge and Blackwall having on board Guns loaded with Ball, or discharging Guns before Sun-rising or after Sun-setting, or heating Tar and other combustible Matter on board of Vessels, shall forfeit not exceeding 5*l.*

XXXVI. And for the more effectual prevention of accidents by fire and other mischiefs upon the said river, be it further enacted, That if

any master or commander, or other officer of any ship or vessel (except his Majesty's ships,) shall, while such ship or vessel shall lie or be in the said river between *Westminster Bridge* and *Blackwall*, keep any gun on board such ship or vessel shotted or loaded with ball, or cause or permit to be fired or discharged any gun on board such ship or vessel, before sun-rising or after sun-setting, such master commander or other officer shall, for every such gun so kept shotted or loaded, forfeit the sum of five shillings; and for every gun so fired or discharged, the sum of ten shillings and if any master commander or other officer of any such ship or vessel, or any other person on board of the same, or any person on board of any barge lighter boat or other craft or vessel, shall, while such ship barge lighter boat craft or vessel shall lie or be in the said river between *Westminster Bridge* and *Blackwall*, heat or melt, or cause or permit to be heated or melted by fire loggerheat shot or any other means, on board any ship barge lighter boat craft or vessel whatever, any pitch tar rosin grease tallow oil or other combustible matter, every person so offending shall for every such offence forfeit any sum not exceeding five pounds; and any one of the justices appointed to attend at the *Thames* Police-office, or any other justice within his jurisdiction, is hereby authorised and required, upon any information exhibited or complaint made in that behalf, within ten days next after any such offence shall have been committed, to summon the party accused, and also the witnesses on either side, or after oath made of the commission of any of the facts above-mentioned by one or more credible witness or witnesses, to issue a warrant to apprehend the party accused, and upon the party's appearance or contempt in not appearing (upon the proof of notice given), such justice shall proceed to the examination of the witness or witnesses on oath, and upon due proof thereof, either by the voluntary confession of the party, or by the oath of one or more credible witness or witnesses, to give judgment or sentence; and in case the party accused shall be convicted of such offence, it shall and may be lawful for such justice to commit such offender to prison, there to remain for any time not exceeding the space of two months, unless the penalty shall be sooner paid; and if any person shall find himself aggrieved by the judgment of any such justice, he may appeal to the next court of general quarter sessions for the county or city where such offence shall have been committed, on giving immediate notice of such appeal, and finding sufficient security, to the satisfaction of such justice, for prosecuting such appeal with effect, and for abiding the determination of the court therein; and the said court are hereby empowered to summon and examine witnesses upon oath, and finally to hear and determine the matter, and in case the judgment shall be affirmed, to award the person appealing to pay such costs occasioned by such appeal as shall seem meet; and one moiety of all money recovered on account of every such penalty shall be distributed, at the discretion of the justice making the conviction, to such person or persons as he shall judge to have been instrumental in detecting and prosecuting the offender.

Appeal to Quarter Sessions.

XXXVII. And be it further enacted, That every person who for the purpose of protecting or preventing any goods wares merchandize or other articles whatsoever from being seized, on suspicion of their being stolen or otherwise unlawfully obtained, or of preventing the same from being produced or made to serve as evidence of or concerning any felony or misdemeanor, shall frame or cause to be framed, or be anywise concerned in framing or causing to be framed any bill of parcels containing any false statement in regard to the name or abode of any alleged vendor, the quantity or quality of any goods, the place from whence or the conveyance by which the same were furnished, the price agreed upon or charged for the same, or any other particular, knowing such statement to be false, or who shall fraudulently produce such bill of parcels knowing the same to have been fraudulently framed, shall be adjudged guilty of a misdemeanor, and shall suffer as hereinafter mentioned; and may, moreover, at the discretion of any justice in whose jurisdiction such offence shall be committed, be published and advertised as a fabricator of

Framing a false Bill of Parcels to escape Detection deemed a Misdemeanor.

No. II.
3 Geo. IV.
c. 55.

false bills of parcels, or as a convicted or reputed receiver of goods stolen or otherwise unlawfully obtained, as the case may be.

Penalty for breaking, &c. Packages, with an Intent that the Contents may be spilled.

XXXVIII. And whereas, for the purpose of increasing the facility of depredation it hath been a common practice among persons concerned in the landing and warehousing of merchandize from on board ships and vessels in the said river, wilfully to injure and promote the opening and breaking of casks bags and other packages, and the spilling of their contents; for remedy thereof, be it further enacted, That if any person employed in the loading landing or warehousing of any goods, or any other person, shall wilfully or through culpable negligence or carelessness, cause or suffer, or be concerned in causing or suffering to be broken bruised pierced started cut torn or otherwise injured, any cask box chest bag or other package, containing or being designed and prepared for containing any goods while on board of any barge lighter or other craft lying or being in the said river, or any dock creek quay wharf or landing-place adjacent to the same, or in or in the way to or from any warehouse to or from which such package shall have been removed, shall be removing, or about to be removed, with intent that the contents of such package or any part thereof may be spilled or dropped from such package, every person so offending shall for every such offence be deemed and adjudged guilty of misdemeanor, and shall suffer as hereinafter mentioned.

Wilfully letting fall Articles into the Thames, or into a boat, &c with fraudulent Intention, how to be punished.

XXXIX. And be it further enacted, That if for the purpose of preventing the seizure or discovery of any materials furniture stores or merchandize belonging to or having been part of the cargo of any ship or vessel lying in the said river or the docks or creeks adjacent thereto, or of any other articles unlawfully obtained from any such ship or vessel, any such or any other article shall be wilfully let fall or thrown into the river, or in any other manner directly or purposely conveyed away or endeavoured to be conveyed away from any ship boat barge lighter craft wharf quay or other landing-place, every person being party privy or accessory to such letting-fall throwing or conveyance, or to any previous instructions or premeditated design so to let fall throw or convey away any such article with any such purpose as aforesaid, shall be deemed and adjudged guilty of a misdemeanor; and every *Thames* police surveyor, or constable or other peace officer within his jurisdiction, shall apprehend and detain every such person, and forthwith convey him or her before some justice, and shall also seize and detain any boat in which such person shall be found, or out of which any such article shall be so let fall thrown or conveyed away; and upon the conviction of such person, such boat, with her tackle apparel furniture and loading shall be forfeited and disposed of as is hereinafter directed.

For Oences declared Misdemeanors, and for which no Penalty is appointed, Offenders shall forfeit not exceeding 5*l.* or be imprisoned.

XL. And be it further enacted, That for every offence hereinbefore declared to be a misdemeanor, or for which no special penalty is hereinbefore appointed, the offender shall, at the discretion of the justice before whom the conviction shall take place, either forfeit and pay any sum not exceeding five pounds, or suffer imprisonment for any time not exceeding two months, in any gaol or house of correction within the jurisdiction of such justice; and in case of the adjudication of a pecuniary penalty and nonpayment thereof, it shall be lawful for such justice to commit the offender to any gaol or house of correction for the like term unless such penalty shall be sooner paid; and one moiety of every such pecuniary penalty shall be paid to such receiver as aforesaid for the purposes of this Act, and the other moiety thereof under the direction of the justice by whom the same shall have been adjudged, shall either be paid and applied to the use of the informer alone, or be distributed between such persons as shall have contributed to the conviction of the offender in such shares and proportions as such justice shall think fit; and that when any articles shall be seized by virtue of this Act, and the person in whose possession the same shall have been found shall be convicted of a misdemeanor as aforesaid, it shall be lawful for the justice before whom the conviction shall take place, to cause such articles to be advertised in some public newspaper, to the end that persons having a right thereto may claim and receive the same within thirty days from the date

Articles seized to be advertised if Person convicted.

No. II.
3 Geo. IV. c. 55.

of such advertisement in the manner and upon the conditions directed in and by an Act of the second year of his late Majesty's reign, intituled 'An Act to prevent the committing of Thefts and Frauds by Persons navigating Bum-boats and other Boats upon the River *Thames*;' and if no person shall prove his property and right to the said articles within the said thirty days, the same shall be sold for the best price that can reasonably be gotten for the same; and after deducting the charges according to the said recited Act, the residue of the produce thereof shall be paid to the said receiver for the purposes of this Act.

2 G. 3. c. 28.

Offences how to be tried.

XLI. And be it further enacted, That in every case in which complaint shall be made of any offence by this Act, declared to be a misdemeanor, or for which any pecuniary penalty is hereinbefore appointed, with or without imprisonment, in addition thereto or in lieu thereof, the matter of such complaint, if the offence shall have been committed or the offender apprehended within the jurisdiction of the city of *London*, may be heard and determined by the lord mayor recorder or one of the aldermen of the said city, and not elsewhere; but if the offence shall have been committed or the offender apprehended out of the said jurisdiction, such complaint may be heard and determined either by one of the justices appointed to the *Thames* police office as aforesaid, or by any other justice within whose jurisdiction the offence shall have been committed or the offender apprehended; and every conviction thereupon had shall be certified filed and entered in such manner as is directed in and by the said Act of the second year of his late Majesty's reign, with respect to convictions under that Act, and may also be drawn up in such form and manner, *mutatis mutandis*, as is appointed in and by the same Act; and neither such conviction nor any proceeding previous thereto shall be removed by certiorari or otherwise, into any court of record, but such conviction shall be final and conclusive to all intents and purposes whatsoever.

Misdemeanors under recited Act 2 G. 3. c. 28. to be punished at the Discretion of the Justice.

XLII. And whereas the punishments for misdemeanors provided in and by the said Act of the second year of his late Majesty's reign, have been found insufficient for the preventing of such offences; be it enacted, That every person who shall be guilty of any of the offences respectively made and declared to be misdemeanors in and by the said Act, may be punished at the discretion of the justice or justices by or before whom the offender shall be convicted, either with the punishment appointed in and by the said Act or by such other punishment as is hereby appointed for and in cases of offences declared to be misdemeanors in and by this present Act; and that all the powers and provisions of the said last recited Act respecting the obstruction of its execution and the commencement and prosecution of actions against justices, and their officers acting thereunder, shall extend to all things done and to all persons acting under this Act, as fully as if the same powers and provisions were herein repeated and re-enacted.

Forfeited Boats, instead of being burnt, may be restored or sold.

XLIII. And be it further enacted, That in all cases in which it is directed by the said last recited Act, that any boat with her tackle and appurtenances which shall be forfeited shall be burnt and destroyed, it shall be lawful for any justice before whom any person shall have been convicted of any offence, whereby any boat is or should be adjudged to be forfeited under that Act, and also for any justice by whom any boat shall be adjudged to be forfeited under this Act, to direct such boat with her tackle and appurtenances either to be burnt and destroyed or to be restored to the owners thereof, or to be publicly sold, and the produce of such sale to be applied in like manner as other forfeitures under this Act.

Disputes about Wages for Labour done on the River, &c. (except by Trinity Ballast-men) to be settled by Justices, provided the Sum in question does not exceed 5*l*.

XLIV. And whereas disputes frequently arise between bargemen lightermen watermen ballastmen coal-whippers coal-porters sailors lumpers riggers shipwrights caulkers and other labourers who work for hire in or upon the said river, and the docks creeks wharfs quays and places adjacent, respecting wages or money due to them for work, and the owners masters or commanders of vessels and their agents and the

No. II.
3 Geo. IV.
c. 55.

owners wharfingers or occupiers of such wharfs or quays and their agents and other persons employing such labourers; be it further enacted, That all differences complaints and disputes which shall happen and arise between any bargemen, lightermen watermen ballastmen (except trinity ballastmen) coal-whippers coal-porters sailors lumpers riggers shipwrights caulkers or other labourers who work for hire in or upon the said river or the docks creeks wharfs quays or places adjacent, and the owners masters or commanders of vessels or their agents on the said river, or the docks or creeks thereunto adjoining, or the owners wharfingers or occupiers of such wharfs or quays, or their agents or other employers, respecting wages or money due to such labourers for work, whether the same persons be employed for any certain time, or in any other manner, shall be heard and determined by the justices appointed to the *Thames* police office, or any one of them, or any other justice within his jurisdiction; and every such justice is hereby empowered to summon before him any such master or commander of any vessel or any such owner thereof or his agent, or the owner wharfinger or occupier of any wharf or quay or their respective agents, or any other employer; and if any such master commander owner wharfinger occupier agent or employer shall refuse or neglect to attend such summons, then every such justice is hereby empowered to issue his warrant to bring such person summoned before him to answer such complaint, and to examine upon oath any such bargemen lightermen waterman ballastman (other than any Trinity ballastman) coal-whipper coal-porter sailor lumper rigger shipwright caulker or other labourer, or any other witness or witnesses touching any such complaint or dispute, and to make such order for payment of so much wages to such bargemen lighterman waterman ballastman (other than any Trinity ballastman) coal-whipper coal-porter sailor lumper rigger shipwright caulker or other labourer, as to such justice shall seem just and reasonable, provided that the sum ordered do not exceed five pounds, besides all reasonable costs attending the prosecution of the complaint, which costs the justice is empowered to order; and in case of refusal to pay or nonpayment of any sum so ordered by the space of twenty-four hours next after such determination, such justice may issue forth his warrant to levy the same by distress and sale of the goods and chattels of the person ordered to pay the same, together with the charges of such distress and sale; and if no sufficient distress shall be found, such justice shall commit the person ordered to make such payment to prison for any time not exceeding one month, unless the sum so ordered shall be sooner paid; and every such order shall be final and conclusive to all intents and purposes, and shall not be removable by certiorari or otherwise into any court whatsoever.

Jurisdiction, for determining Disputes about Wages for Labour done on the Thames, &c.

XLV. Provided always, and be it further enacted, That nothing herein contained shall extend to authorise or empower any justice, except the lord mayor aldermen and recorder of the city of *London*, for the time being, or some or one of them, to hear and determine any such differences complaints or disputes as shall or may arise for or in respect of any employment or work done within the said city of *London* or the suburbs and liberties thereof, or on board of any ship hoy barge lighter boat or other vessel lying or being on the north side of the river, between the tower of *London* and the western extremity of the *Temple*, adjoining *Essex-street* in the county of *Middlesex*.

Not to affect the Rights of the City of London, &c.

XLVI. Provided always, and be it further enacted, That nothing in this Act shall extend to deprive the lord mayor and commonalty and citizens of the city of *London* of any right privilege or jurisdiction heretofore lawfully claimed exercised or enjoyed within the town and borough of *Southwark* or the liberties thereof, or to prevent the said lord mayor for the time being, or such of the aldermen of the said city as have borne the office of mayoralty, or the recorder of the said city for the time being from acting as justices of the peace within the said town and borough of *Southwark* and the liberties thereof, in such and the like manner as they could or might have done in case this Act had not been made; nor to

deprive the lord mayor and commonalty and citizens of the said city of any right privilege immunity or jurisdiction which they have heretofore lawfully claimed exercised or enjoyed upon the said river, or the lord mayor of the said city for the time being as conservator of the said river; nor to prevent the said lord mayor and the said aldermen and recorder of the said city from acting as justices of the peace upon the said river or taking cognizance of offences committed upon or within the limits of the same, in such manner as they might or would have done in case this Act had not been made

Nor the Dean or High Steward of Westminster.

XLVII Provided also, and be it further enacted, That nothing in this Act shall extend to deprive the dean and chapter of the collegiate church of *Saint Peter, Westminster*, or the high steward or high bailiff of the city and liberty of *Westminster* for the time being, or their respective lawful deputies, of any rights privileges or jurisdictions which they have heretofore lawfully claimed exercised or enjoyed within the said city and liberty, in such and the like manner as they could or might have done in case this Act had not been made

Not to affect the rights of the Trinity House, &c.

XLVIII Provided also, and be it further enacted, That nothing in this Act contained shall extend to prejudice or derogate from any of the rights privileges or authorities of the master wardens and assistants of the guild fraternity or brotherhood of the most glorious and undivided trinity and of *Saint Clement*, in the parish of *Deptford Strond* in the county of *Kent*

Commencement and Continuance of Act.

XLIX. And be it further enacted, That this Act shall commence and have effect from the expiration of the said recited Act of the last session of Parliament, and shall continue and be in force for the term of seven years.

Public Act.

L. And be it further enacted, That this Act shall be deemed adjudged and taken to be a public Act, and shall be judicially taken notice of as such by all judges justices and other persons whomsoever, without the same being specially pleaded.

END OF VOL VII

B. Bensley, Bolt Court, Fleet Street.